Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

THE ACTS OF THE HOLY SEE, DILIGENTLY COMPILED AND ENRICHED WITH STUDY AND CARE BY VICTOR PIZZESI, DOCTOR OF BOTH LAWS. Legal and more solemn acts emanating directly from the Supreme Roman Pontiff: meanwhile, acts which have been publicly promulgated by law, whether they are Decrees, Instructions, Responses, or the like; especially, expositions and resolutions of cases from various Sacred Congregations of Cardinals, carefully compiled to promote an accurate understanding and observance of ecclesiastical law: and finally, other legal matters, by which those expositions are suitably elucidated which might present a difficulty, or which further advance the knowledge of the law for those who diligently seek to understand the laws of the Church, and who labor zealously in the governance of the Christian flock, or in maintaining the vineyard of the Lord. ROME, 1892-93, BY THE POLYGLOT PRINTING PRESS OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH. Reprinted with the permission of the Libreria Editrice Vaticana. JOHNSON REPRINT CORPORATION, JOHNSON REPRINT COMPANY LTD., 111 Fifth Avenue, New York, N.Y. 10003; Berkeley Square House, London, W1X6BA.

[*Latin ed. p. 3*]

3. LETTER from Our Most Holy Lord Leo, by divine providence Pope Xlii, to the Archbishops and Bishops of Hispania, Italia, and both America. CONCERNING CHRISTOPHORO COLUMBO. At the close of the preceding century, after that Ligurian man, with God's help, first sailed to unknown shores across the Atlantic Ocean, men have striven to celebrate the memory of this event with grateful remembrance and to extol the author thereof. And indeed, it is difficult to find any cause more worthy to stir the minds and inflame the studies. For the matter itself is the greatest and most beautiful of all things that men have ever accomplished in any age; and he who accomplished it is, in the greatness of his spirit and intellect, comparable to very few among those born of men. Through his work, a new world emerged from the unexplored depths of the ocean: hundreds of thousands of souls, rescued from oblivion and darkness, were restored to the common society of mankind, and, what is far greater, through the communication of the goods that Jesus Christ has brought forth, they were recalled from death to eternal life. — Europe, indeed, astonished at first by the novelty and wonder of this event, gradually came to understand what was due to Columbus, as, through the colonies established in America, through constant trade, through the exchange of services, through the giving and receiving of maritime goods, an incredible increase was made in the knowledge of nature, in common resources, and in wealth; and at the same time, the authority of the name of Europe grew marvelously. — Therefore, in this very great significance of honor, and in this, as it were,

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concentration of praise, it is entirely fitting that the Church should not remain silent, since, according to its custom and its institution, it gladly approves and strives to promote whatever appears to be honorable and praiseworthy. It reserves the greatest and most singular honors for those outstanding virtues of character by which souls are united to eternal salvation; but for that reason, it does not despise or undervalue other kinds of merit; rather, it has always been accustomed to favor with great zeal the honor and praise due to those who have deserved it through their excellent contributions to human society and who have achieved immortality among posterity. For God is wonderful, especially in His saints; but the traces of His divine virtue are also apparent in those in whom a certain excellence of spirit and mind shines forth, because it is not from any other source.

[*Latin ed. p. 4*]

4. Letters, in men, are a sign of both intelligence and the loftiness of the soul, unless they originate from the Parent and Creator, God. But there is another cause, and one entirely unique, which we should remember with eternal gratitude. Namely, our Columbus; for if one considers for a short time the reason why he conceived the plan to explore the dark sea, and how he attempted to carry out this plan, there is no doubt that the Catholic faith played a very important role in accomplishing and perfecting this undertaking, so that, for this very reason, all of humankind owes a great debt to the Church. Indeed, there have been many strong and experienced men, both before Christopher Columbus and after, who, with persistent study, have explored unknown lands and even more unknown seas. The memory of these men, and the benefits they conferred, are rightly praised, because they truly expanded the boundaries of knowledge and human progress, and increased the common good: and this was no small undertaking, but rather through great effort of spirit, and often through great dangers.

However, there is a significant difference between these men and the one we are discussing. Namely, this is what especially distinguishes Columbus: he sought something greater and higher than the others, as he traversed and explored the vast expanses of the Ocean. This is not to say that he was not moved by the most honorable desire to learn and to benefit human society; nor that he scorned glory, which often bites sharply at the hearts of great men, or that he completely rejected the hope of personal gain. Rather, these human reasons were far surpassed in him by the influence of his ancestral religion, which, without any doubt, gave him his purpose and will, and in the most difficult circumstances, provided him with constancy and consolation. For it is certain that this was the main principle and purpose that guided him: to open the way for the Gospel through new lands and new seas. This may seem unlikely to those who, with all their attention and care focused on the nature of things that are perceived by the senses, refuse to consider greater matters. But on the contrary, it is almost always

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the case with great minds that they prefer to aspire to higher things: for they are inspired by the impulses of divine faith and are endowed with the best qualities of all. Certainly, Columbus combined the study of nature with the study of religion, and, having absorbed the teachings of the innermost Catholic faith, he conformed his mind to them. For this reason, he was...

[*Latin ed. p. 5*]

Having discovered, through the study of astronomy and ancient monuments, that the known world extended far beyond its supposed limits, and that vast regions of land lay to the west, previously unexplored, a great multitude of souls, immersed in lamentable darkness, barbaric customs, and empty superstitions concerning the gods, presented themselves to his mind. To live in such ignorance and savagery was a misery; to lack knowledge of the most important things, and to remain in ignorance of the one true God, was an even greater one. Therefore, considering these things, he first of all desired to extend the Christian name and the benefits of Christian charity to the west; and the entire history of his endeavors abundantly confirms this. Indeed, when he first petitioned the King and Queen Isabel of Spain, and they hesitated, he plainly stated the reason: that their glory would increase to immortality if they established the name and doctrine of Jesus Christ in such distant lands. Not long afterward, having made his vows, he testified to God that he would strive, with God's help and grace, that the kings would continue to bring new shores and new lands to the Gospel. He urged the apostolic men through letters from Alexander VI, the Supreme Pontiff, in which he stated: "I am confident, with God's help, that I will be able to spread the most holy name of Jesus Christ and the Gospel as widely as possible." And, we believe, he rejoiced when Raphael Sanchez, having returned from India, wrote to him from Lisbon, giving thanks to God for the very prosperous success He had so graciously granted him: it was fitting to rejoice and triumph in Jesus Christ on earth, just as in heaven, for the countless nations, which had previously been rushing towards ruin, were now within reach of salvation. He offered this reason, that if Ferdinand and Isabel were to venture into the new world and establish commerce with the indigenous peoples, they should not do so unless it was by Christians and Catholics, because in all his endeavors and undertakings, he had sought nothing other than the growth and honor of the Christian religion. And Isabel, who had understood the mind of this great man better than anyone else, knew this to be true; indeed, it was clearly the intention of this most pious woman, of great intellect and noble spirit. For she had affirmed that Columbus would bravely venture into the vast ocean, and would accomplish great things for the glory of God. And upon Columbus's second return, she wrote to him, carefully considering the expenses incurred in the expeditions to India, and how these would

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lead to the advancement of the Catholic faith.

[*Latin ed. p. 6*]

6. Otherwise, beyond a human cause, what greater reason was there for him to draw strength of soul and fortitude to endure those things to which he was compelled to persevere, even to the extreme, and perpetually? We understand the opposing opinions of learned men, the rejections of prominent figures, the furious tempests of the ocean, the constant vigils, during which he lost the use of light more than once. Added to these were wars with barbarians, the infidelity of friends and companions, reckless conspiracies, the malice of the envious, the calumnies of detractors, and the chains imposed upon the innocent. Truly, a man would have had to succumb to such labors and such trials, unless he had been sustained by the consciousness of a most beautiful work, which he foresaw would bring glory to the Christian name and salvation to an infinite multitude. — Indeed, the very events of the time wonderfully illustrate this. For it was at the time that Columbus discovered America, when a great storm was about to break upon the Church. Therefore, considering the course of events, one may rightly believe that the Divine Providence ordained that this ornament of Liguria should be born for the purpose of bearing the burdens that would befall the Catholic name from Europe. To bring the race of Indians to the institutions of Christianity was, indeed, the duty and work of the Church. This task was undertaken from the very beginning, and it has persevered, held fast by charity, and continues to progress, having reached even Patagonia in recent times. However, Columbus, certain of being a forerunner and preparing the way for the Gospel, and completely devoted to this purpose, devoted all his efforts to it, scarcely engaging in anything except under the guidance of religion and with piety as his companion. We recall events commonly known, but which are significant for revealing the character and spirit of the man. Indeed, compelled by the Portuguese and, after their rejection, by the people of Genoa, when he had gone to Spain, he entered the walls of a religious house to mature a great plan through careful consideration, under the guidance of a religious man, a disciple of Francis of Assisi. Finally, about to set sail for the ocean, after seven years, he takes care of matters pertaining to the expiation of his soul: he prays to the Queen of Heaven that she may assist his endeavors and direct his course, and he does not order the sails to be raised until, after invoking the name of the most august Trinity, he gives the command. Soon, having ventured into the open sea, with the sea raging, and the ship groaning, he preserves the tranquility of his mind, trusting in God. The man's purpose is evident in the new names he gave to the new islands: and when he touched upon each

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one, he humbly worships Almighty God, and does not claim possession.

[*Latin ed. p. 7*]

LETTERS 7, beginning, unless in the name of Jesus Christ. Whoever is driven by ambition, has nothing older than to erect the sacred image of the Cross on the shore: and to introduce the divine name of the Redeemer, which he had so often sung aloud with open mouth to the sound of murmuring waves, into new lands; and for this reason, he begins the work of building in Hispaniola with the demolition of a temple, and he begins public celebrations with the most holy ceremonies. Therefore, considering what Columbus did in exploring those regions of so much sea and land, inaccessible until that day and uncultivated, which nevertheless, with such rapid progress, human civilization, name, and wealth later grew to such an extent as we see, the magnitude of this deed, and the power and variety of the benefits that followed, ought to be celebrated with grateful remembrance and with all signs of honor. But above all, it is necessary to acknowledge and venerate with singular devotion the power and counsel of the eternal mind, to which the new discoverer of the world knowingly submitted and served. Therefore, that the Columbian celebrations may be carried out worthily and in accordance with truth, the sanctity of religion must be added to the splendor of civil honor. Therefore, just as formerly, thanks were publicly given to the immortal God, Providentissimus, for the first announcement of this event, under the guidance of the Supreme Pontiff: so now, in renewing the memory of this auspicious event, we believe that the same should be done. We decree therefore that on the 12th of October, or on the next Sunday, if the Ordinary of the place deems it more convenient, in the Cathedrals and Collegiate Churches of Spain, Italy, and both Americas, after the Office of the day, a solemn Mass should be celebrated of the Most Holy Trinity. And, besides the nations mentioned above, we trust that the same will be carried out among all others, by the authority of the Bishops: for what has benefited all, it is fitting that all should celebrate piously and gratefully. In the meantime, as a pledge of divine blessings and a witness of Our paternal benevolence, We impart to you, Venerable Brothers, and to your clergy and people, Our apostolic blessing in the Lord. Given at Rome, at St. Peter's, on the 16th of July, in the 15th year of Our Pontificate. LEO XIII.

[*Latin ed. p. 8*]

8 FROM THE SECRETARY'S BRIEF LETTER, in the form of a Brief; concerning the institution of the Sacred Family Association, unique and universal. It escapes no one that the prosperity of both private and public affairs depends most of all on the domestic institution. For the more deeply virtue takes root at home, and the more diligently the minds of children are instructed by the voice and example of their parents in the precepts of

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religion, the more abundant will be the fruits that accrue to the common good. Therefore, it is of the utmost importance that the domestic society not only be established piously, but also be governed by pious laws: and that the spirit of religion and the principles of Christian life be diligently and constantly fostered within it. Hence, it is clear that the merciful God, when He determined to accomplish the work of human redemption, which the ages had long awaited, arranged the order and manner of that very work in such a way that the very beginnings of it would present to the world the august spectacle of a divinely constituted Family, in which all would behold the most perfect example of domestic society, and of all virtue and sanctity. Such a Family was that of Nazareth, in which, before it shone forth fully to all the nations, the Sun of Justice was hidden: namely, Christ our God and Savior, together with the Virgin Mother and Joseph, the most holy man, who performed a paternal office towards Jesus. There is no doubt that from those praises which arise from mutual acts of charity, from the sanctity of morals, and from the practice of piety, within that society and custom, the greatest things shone forth in that very Family, which, indeed, was to be a model for others. And therefore, by the benign counsel of Providence, it was constituted in this way; so that each Christian, whatever his condition or place, if he pays attention to it, may easily have an opportunity and an incentive to practice any virtue. Fathers of families have in Joseph the most excellent model of vigilance and paternal providence; mothers have in the Most Holy Virgin, the Mother of God, a perfect example of love, modesty, humility of spirit, and perfect faith; and children of the family have in Jesus, who was subject to them, the divine model of obedience.

[*Latin ed. p. 9*]

9. That they may be admired, venerated, and imitated. Those who are of noble birth should learn from the royal family how to moderate themselves in times of prosperity, and how to maintain their dignity in times of adversity. The wealthy should learn from us how much greater virtues are than riches. And those workers, and all those who, especially in our times, are so keenly driven by the hardships and precarious circumstances of family life, if they look to the most holy members of that domestic society, they will not lack a reason to rejoice in their lot, rather than to grieve. For they share the same labors with the Holy Family; they share the same cares for daily life; and Joseph, indeed, provided for the necessities of life through his own work; nay, the divine hands themselves exercised themselves in manual labor. It is not surprising, therefore, that the wisest of men, overflowing with riches, should have wished to renounce them, and to choose poverty as a companion to Jesus, Mary, and Joseph. From these things, the cult of the Holy Family has rightly and justly been developed among Catholics, and it grows greater each day. This is evidenced by the Christian sodalities founded under the invocation of the Holy Family, by

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the special honors paid to it, and especially by the privileges and graces granted by Our Predecessors to encourage devotion to it. This cult has been held in great honor since the seventeenth century, and has been widely spread throughout Italy, France, and Belgium, permeating almost all of Europe; and then, having crossed the vast expanses of the ocean, it has extended itself into America, through the Canadian region, through the care and work of the Venerable Servant of God, Francis de Montmorency-Laval, the first Bishop of Quebec, and the Venerable Servant of God, Margaret Bourgeois, flourishing under auspicious circumstances. Recently, the beloved son Francis Philip Francoz, of the Society of Jesus, founded a pious association of the Holy Family in Lyons, which promises to bear joyful and abundant fruits, with God's help. The purpose of this association, so auspiciously founded, is to bind Christian families more closely to the Holy Family in piety, or rather, to dedicate them entirely to it, with the intention that Jesus, Mary, and Joseph may protect and cherish the families dedicated to them as their own. Those who are admitted into the number of members should, according to the rule, gather together with those who live at home, and perform acts of piety before the image of the Holy Family, striving, with their help, to unite their minds in faith and charity.

[*Latin ed. p. 10*]

10. Letters which, filled with love for God and for men, demand an exemplary life. This pious association, instituted in Bologna in the manner of the one in Lyons, was approved by Our Predecessor of blessed memory, Pope Pius IX, with similar letters; and subsequently, in a letter dated January 5, 1870, addressed to the pious author, He followed with a singular declaration of praise. As for Us, since We are most concerned with and love all that is most conducive to the salvation of souls, We did not wish to withhold Our praise and commendation; and We signified to Our beloved Son, Augustine, Cardinal Bausa, Archbishop of Florence by Apostolic dispensation, through letters, that this association is useful and salutary, and very suitable for Our times. Furthermore, when Our Sacred Congregation for the Propagation of the Faith, with the assistance of Our beloved Son, Caietan, Cardinal Aloisi-Masella, Prefect of the same Congregation, proposed to Us a formula for the consecration of Christian families, and a prayer to be recited before the image of the Holy Family, We approved both, and We took care to have them transmitted to the Ordinary of each place. Then, fearing that the spirit of this devotion might, with the passage of time, become weakened, We commanded Our Sacred Congregation for the Propagation of the Faith to draw up statutes by which pious associations of the Holy Family, to be instituted throughout the Catholic world, would be so united that one president would be appointed to preside over them all, who would govern and regulate them with supreme authority. The statutes, after careful examination, were drawn up by the same Sacred

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Congregation, and are those which are subscribed below. STATUTES of the pious universal association of families consecrated to the Holy Family of Nazareth. 1° The purpose of this pious association is that Christian families should consecrate themselves to the Holy Family of Nazareth, and should venerate and hold it as an example, honoring it before its image with daily prayer, and living in conformity with...

[*Latin ed. p. 11*]

She commended them with excellent virtues, of which she herself provided an example for every class of society, and especially for the working class. 2° The Pious Association has its center in Rome, with the Eminent Cardinal Vicar *pro tempore* of His Holiness, who is its Protector. He is assisted by the Most Reverend Secretary of the Sacred Congregation of Rites, and by two other Prelates chosen by him, and furthermore by an ecclesiastic with the office of Secretary, who directs the same Association throughout the world, striving that it may preserve the spirit and character of its own institution, and that it may spread more and more. 3° In each Diocese or Apostolic Vicariate, the Ordinary, in order better to promote the Pious Association among his faithful, shall avail himself of the work of an ecclesiastic chosen by him, with the title of Diocesan Director. 4° The Diocesan Directors shall correspond with the parish priests, to whom alone the enrollment of the families of their respective parishes is entrusted. Furthermore, in the month of May of each year, the parish priests shall inform the Diocesan Directors, and these, under the authority of the Ordinary, the central office in Rome, of the number of new families enrolled in the Pious Association.

[*Latin ed. p. 12*]

12. *LITTERAE* 5°. The consecration of families shall be performed according to the formula approved and prescribed by the Most Holy Pope Leo XIII. This can be done individually by each family, or by several families gathered together in the parish church, in the presence of the parish priest himself, or his delegate.

6°. In each of the families enrolled, the image of the Holy Family of Nazareth shall be kept; and the members thereof, at least once a day, and preferably in the evening, shall pray together before it. It is recommended for this purpose to use in a special way the formula of prayer approved by the reigning Most Holy Pope, along with the frequent use of the following three ejaculations: Jesus, Joseph, and Mary, I give you my heart and soul. Jesus, Joseph, and Mary, assist me in my last agony. Jesus, Joseph, and Mary, may my soul breathe its last with you.

7°. The image of the Holy Family can be that mentioned in the letter of the Most Holy Pope Pius IX of January 5, 1870, or any other, in which our Lord Jesus Christ is represented in his hidden life that he led with the

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Blessed Virgin Mary, his Mother, and with his most chaste spouse.

[*Latin ed. p. 13*]

To Saint Joseph, her most chaste Spouse. However, it remains with the Ordinary, according to the Council of Trent, the right to exclude those images which do not conform to the very concept of this Association. 8° The families enrolled in the Association enjoy the Indulgences and spiritual benefits granted by the Supreme Pontiffs, as is indicated in the enrollment document. 9° The Cardinal Protector, with his Council, will draw up and publish a set of regulations, in which will be found special provisions concerning those things which may be most useful to the pious Association, and in which, in particular, will be indicated its own feasts, the day of the titular feast, the annual renewal of the act of consecration to be performed collectively, the meetings to be held, etc. These statutes, after the aforementioned Cardinal Prefect had presented them to Us, We have examined and, with Our Apostolic authority, approved and confirmed them, revoking and annulling all that has been written and enacted on this matter, especially the Apostolic Letters dated October 3rd, 1865, and all acts pertaining to the original Lyons Association. We wish and command that all Associations of the Holy Family, of whatever title, which now exist, should coalesce into this one and universal Association. However, we exempt religious Congregations of this title, which use constitutions approved by this Holy See, and confraternities properly so-called, provided that they are canonically erected, and adhere to the rules and norms.

[*Latin ed. p. 14*]

44. Letters are to be directed from the Roman Pontiffs, specifically from Clement VIII, in the Constitution *Quaecumque*, dated December 7th, in the year 1604. These confraternities and religious congregations, which perhaps have hitherto devoted themselves to assisting families, should henceforth abstain entirely from this care, which is solely entrusted to the parish priests. However, it is not necessary that families already enrolled in some association be re-enrolled in order to obtain indulgences and other spiritual benefits, provided that they observe what is prescribed in these new statutes. We choose a President for the entire association, and we appoint a general vicar in spiritual matters for the time being, and perpetually a patron, with all rights and faculties that are deemed necessary for those in authority. Furthermore, we desire that the Council of Urban prelates be present, including the secretary for the time being of Our Sacred Congregation of Rites. Finally, we have good hope that all those to whom the salvation of souls has been entrusted, especially the bishops, will become associates and participants in this pious association, striving to promote its aims. For those who know and deplore with us the corruption and deterioration of Christian morals, the lack of religion and piety in families,

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and the excessive desires for earthly things, will indeed most eagerly desire that suitable remedies be offered for so many and such evils. And indeed, nothing can be conceived that is more salutary or effective for Christian families than the example of the Holy Family, which encompasses the perfection and the absolving of all domestic virtues. Therefore, let as many families as possible, especially those of workers, to whom the force of temptations is more strongly directed, give their names to this pious association. However, care must be taken that the association does not deviate from its purpose, nor that its spirit be changed; but that the exercises of piety and prayers, as they have been decreed, are faithfully observed. Thus, may Jesus, Mary, and Joseph be present within the domestic walls, nourishing charity, governing morals, encouraging virtue by their example, and making all the mortal sorrows that surround us more bearable by alleviating them. We decree all of these things and each of them, as stated above, to be firm and to remain valid forever, notwithstanding constitutions, letters apostolic, privileges, and indulgences, Our own.

[*Latin ed. p. 15*]

LETTERS 15 and according to the Rules of the Apostolic Chancery, and all other contrary things whatsoever. Given in Rome, at St. Peter's, under the Seal of the Fisherman, on the 14th day of June, 1782, in the 15th year of Our Pontificate. S. Card. VANNUTELLI. Privileges and Indulgences granted to the pious Association of the Holy Family. LEO XIII, POPE. For the perpetual memory of this matter. Since it has recently come to Our attention that We should approve and confirm with Apostolic letters the new Statutes of the Association of the Holy Family, We have considered it fitting to fulfill Our duty and Office by praising this same Association in the highest terms, and by commending it most earnestly to Christian families. We have praised it, and commended it, with this intention and purpose, namely, that the Christian people, whose eternal salvation has been entrusted to Us, may be drawn back to the praise of Christian virtues by the example of the Holy Family and by Our invitation, in due season. For Christian virtue is so effective, and possesses such power, that a great part of the healing of evils, which afflict us, or the repelling of dangers, which we fear, lies within it. Indeed, men are wonderfully aroused to virtue by example: and the more worthy of imitation is judged to be the person from whom the request for imitation is made. Therefore, it is not surprising that We, who desire nothing more than to be able, by stirring up Christian virtue everywhere, to heal the present evils, and to avert the impending dangers, pursue the Association of the Holy Family with singular benevolence and zeal, because it proposes the sanctity of that divine Family as its model. For all those who are associated with such an Association, contemplating the most excellent virtues of Jesus, Mary, and Joseph, must necessarily acquire some likeness to them, and strive to

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become better through imitation. Therefore, may this pious Association flourish and prosper, both in the number of its members, and in the praise of its good works; may it increase and be spread to more and more individuals each day: for as it flourishes, it will easily bring about that...

[*Latin ed. p. 16*]

16. Letters [of grace], piety, and all Christian praise will flourish in families. Since men are most readily moved by rewards, We, to the extent that it is within Our power, offer to them, as an invitation, the reward of spiritual goods, not fragile and fleeting, but eternal. Furthermore, let them expect greater things from those to whom they have devoted themselves, namely, from Jesus, Mary, and Joseph, who are present and merciful to their servants throughout the course of their lives, and who will afterward cause their most holy and sweetest names to remain on the lips of the dying. Therefore, since that which is good and holy benefits God's glory and the salvation of souls, We, by Our Apostolic authority, through these letters, grant to all and each members of the sacred Family Association, both present and future, the remissions of penalties, or indulgences, and the privileges, which are listed below in the attached index, as We wish and command.

INDEX OF INDULGENCES AND PRIVILEGES TO BE GRANTED TO THE PIOUS SACRED FAMILY ASSOCIATION.

Plenary Indulgences. To members of the Sacred Family Association of both sexes, who, having received the sacrament of Holy Eucharist after a properly prepared confession, devoutly visit a parish church or a public oratory, and there persevere in prayer for a time according to Our will, it shall be granted the right to gain a plenary indulgence on the following days:

I. On the day they join the Association, upon the issuance of the formula of consecration, which has been approved by Us through Our Congregation for Rites, and which is included at the end of this index.

II. On the day of the general meeting held each year, according to the custom of each place where the Association exists, for the renewal of the members' commitment.

III. On the days of the feasts of: 1.° The Nativity; 2.° Circumcision; 3.° Epiphany; 4.° Resurrection; 5.° Ascension.

[*Latin ed. p. 17*]

17 Letters: 6th of the Immaculate Conception, 7th of the Nativity, 8th of the Annunciation, greater feasts of the Blessed Virgin Mary, 9th of the Purification, 10th of the Assumption. Also, on feast days: 11th, St. Joseph, Spouse of the B.V.M., on the nineteenth day of March; 12th, of the Patronage of the same, on the third Sunday after Easter; 13th, of the Espousals of the B.V.M., on the twenty-third day of January. IV. On the feast day

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of the titular saint of the entire Association. V. On days chosen by the members each month, provided that within that month they have recited the prescribed prayers together before the image of the Holy Family in their respective families. VI. For the dying, if, not having made a worthy Confession and Communion, they have expiated their sins with sorrow of mind, and have implored the holy name of Jesus, either with voice, or, if they have ceased to be able to speak, with will. Partial Indulgences. I. Members of the Association of the Holy Family, of either sex, who, at least with a contrite heart, have visited the parish church in which the Association is established, or some other sacred temple, and have prayed to God for the safety of the Christian religion, may gain partial indulgences of seven years and forty days on: 1st, the day of the Visitation; 2nd, the day of the Presentation of the B.V.M.; 3rd, the day of the Patronage; 4th, on any day, if the same members, having assembled together in their respective families, have recited prayers with a contrite heart before the image of the Holy Family. 5th, on the days in which the members have been present at meetings that have taken place. II. The same members shall gain indulgences of three hundred days each time they, with a contrite heart, recite the following prayer before the image of the Holy Family in any language. Acts, Volume XXV, page CCLXXXIX.

[*Latin ed. p. 18*]

18. *LETTERS. PRAYER TO BE RECITED DAILY BEFORE THE IMAGE OF THE HOLY FAMILY:* "O most loving Jesus, who, with your ineffable virtues and domestic examples, established the Family, which you have chosen on earth, look with mercy upon this our home, which, prostrate at your feet, implores your favor. Remember that this is your house; for it has consecrated itself to you with a special devotion. Protect it with your goodness, deliver it from dangers, provide for its needs, and grant it the grace to persevere constantly in the imitation of your holy Family; so that, throughout the time of its mortal life, faithfully adhering to your service and love, it may finally render you eternal praises in heaven. O Mary, most sweet Mother, we implore your protection, certain that your divine Son will be moved by your prayers. And you also, most glorious and holy Patriarch, Saint Joseph, help us with your powerful intercession, and present our prayers to Jesus Christ through the hands of Mary."

If, however, members, either through infirmity or some other cause, are unable to recite this prayer, they may obtain the same indulgence if they devoutly recite the Our Father five times, and the Angelic Salutation with "Gloria Patri."

III. Members of the Association shall gain a plenary indulgence once a day, if they offer the following prayers in any language: "Jesus, Mary, Joseph, enlighten us, help us, save us. So be it."

IV. Members shall gain a hundred days' indulgence if they work to bring

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other Christian families to this pious and universal Association.

V. Members shall gain an indulgence of sixty days, whenever they: 1.° devoutly attend Mass and other divine services in the parish church where the Association is established; 2.° or recite the Our Father five times, and

[*Latin ed. p. 19*]

LETTERS 19: The angelic salutation for deceased members: 3. Whether they have reconciled, or are striving to reconcile, family discord; 4. Whether they have striven to bring families strayed from the path of justice back to the way of salvation; 5. Whether they have diligently instructed boys and girls in Christian precepts; 6. Or whether they have performed any other pious work that benefits the Association. To the members, if they so wish, it is permitted to atone for the faults and punishments of the deceased through all and each of the aforementioned indulgences, whether plenary or partial. PRIVILEGES. For all members. Masses, which are celebrated for deceased members at any altar, will benefit them as if they were celebrated at a privileged altar. For the Parish Priests. I. The privilege of a personal altar for three days each week; provided that they do not enjoy a similar privilege for any other reason. II. The faculty of blessing outside the city, crowns, rosaries, crosses, crucifixes, small statues, and medals, and of applying to them all and each of the indulgences that the Supreme Pontiffs are accustomed to grant to them, as described in the appropriate list; but this faculty is to be exercised only for members enrolled in the Association, on the day that 1. Christians devoutly enter the Association; and 2. The pact of the Association is solemnly renewed. THE FORMULA TO BE RECITED IN ANY LANGUAGE BY CHRISTIAN FAMILIES WHO DEDICATE THEMSELVES TO THE HOLY FAMILY. "O Jesus, our most beloved Redeemer, who were sent from heaven, that you might illuminate the world with your doctrine and example, you willed to spend the greater part of your mortal life in the humble house of Nazareth, subject to Mary and Joseph, and you dedicated that Family, which was to be an example for all Christian families; we now dedicate this house, which offers itself entirely to you, to be blessed."

[*Latin ed. p. 20*]

20 LETTERS » Receive this news. You must protect and guard her, and confirm the holy bond of your marriage in her, together with Christian peace and concord and charity: so that your family may be similar to the divine example, and all those who are part of it may share in eternal blessedness. » O most loving Mother of Jesus Christ and our Mother Mary, through your piety and clemency, may our Lord Jesus Christ accept this consecration, and may He bestow His blessings and benefits upon us. » O Joseph, most holy guardian of Jesus and Mary, may you help us with your prayers in all the needs of our soul and body, so that with you and the blessed

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Virgin Mary, we may eternally render praise and thanksgiving to the divine Redeemer Jesus Christ. » And we will that all these things and each of them, as they have been decreed above, be firm, stable, and ratified forever: notwithstanding any Apostolic Constitutions and Ordinances, or any other contrary things whatsoever. Given at Rome, near St. Peter's, under the Fisherman's ring, on the twentieth day of June in the year 1892, in the fifteenth year of Our Pontificate. L. S. S. CARD. VANNUITELLI. ID JdJOJroIETXXI-IVC Doubts After the letters from the Sacred Congregation of Rites, dated December 10, 1890, were sent to the Ordinaries of the various Dioceses concerning the cult of the Holy Family, the following doubts were proposed to the same Sacred Congregation: I. Can Seminaries, Colleges, Congregations, and Religious Families consecrate themselves to the Holy Family through the formula most recently approved by our Most Holy Lord Pope Leo XIII, as well as Parishes, Dioceses, and Regions? II. Can the prayers approved by the same Most Holy Lord and enriched with indulgences, which are to be recited by each family before the image of the Holy Family, be used in public churches?

[*Latin ed. p. 21*]

LETTERS 21, III. Is it permissible for families, which are already dedicated to Saint Joseph by a special reason, to dedicate themselves to the Holy Family? IV. Since many prayers, litanies, formulas of consecration to the Holy Family, and other similar things are circulated in many places, how is provision to be made? And the Sacred Congregation, having been assembled in a regular meeting at Vatican, and after having considered the matter, having reported to me, the undersigned Cardinal Prefect, has decided as follows: To I. Regarding seminaries, colleges, and individual houses of religious congregations and families, Affirmative; regarding parishes, provision is made through the consecration of families in each "parish"; regarding other matters, it is not advisable. To II. Affirmative, but before the image of the Holy Family. To III. Affirmative. To IV. Regarding litanies, they are included under the general prohibition of litanies that have not been explicitly approved by the Apostolic See; regarding prayers, formulas of consecration, and other prayers of any kind used to honor the Holy Family, they are to be sent by the ordinary pastors of the places, as well as by the superiors of religious congregations, so that they may be subjected to due examination; otherwise, they may not be lawfully used in the future. On February 13, 1892. These matters having been reported to the Most Holy Lord Pope Leo XIII by me, the undersigned Cardinal Prefect, His Holiness approved the resolutions of the Sacred Congregation and confirmed them. On the 18th of the same month and year. CAL CARD. ALOISI MASELLA, S. R. C. Prefect. L. * S. VINO. Nussr, S. R. C. Secretary. FROM THE CONSISTORY ACTS Concerning the Consistory held on July 1, 1892. A secret Consistory was held in Vatican, in which, after the Most Eminent

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and Reverend Lord Cardinal Aloisi-Masella had been appointed to assist the Most Eminent and Reverend Lord Cardinal Seraphino Vannutelli in the office of Chamberlain of the College of Cardinals of the Holy Roman Church, His Holiness proposed the following churches.

[*Latin ed. p. 22*]

22 FROM THE CONSISTORY ACTS: The Metropolitan Church of Toledo was vacant due to the death of the Most Reverend Monsignor Michael. The Sacred Roman Church Cardinal Paya and Rico, the last Archbishop of that see who died outside the Roman court, with the favor of the Most Reverend and Right Reverend Lord Antonino, holding the title of Saint Augustine of the City, and of the same Sacred Roman Church Cardinal Monescillo and Viso, Archbishop of Valencia, were presented to the Most Serene Queen Catholica, Regent. The Metropolitan Church of Valencia was vacant due to the translation of the Most Reverend and Right Reverend Lord Antonino, holding the title of Saint Augustine of the City, to the See of Toledo, with the favor of the Most Reverend and Reverend Fathers Cyriacus Maria Sancha and Hervás, Archbishops of Madrid-Alcalá de Henares, to be presented to the Most Serene Queen Catholica, Regent. The Metropolitan Church of Jaén was vacant due to the death of the Most Reverend Monsignor Salvatore Magnasco, the last Archbishop of that see, who died outside the Roman court, with the favor of the Most Reverend Father Thomas Reggio, Bishop of Ventimiglia. The Metropolitan Church of Senones was vacant due to the death of the Most Reverend and Reverend Victor-Felix, a Cardinal Priest of the Sacred Roman Church, while the aforementioned Cardinal was still living; the last Archbishop of that see died outside the Roman court, with the favor of the Most Reverend Father Peter Mary Stephen Gustav Ardin, Bishop of La Rochelle and Saintes, for nomination by the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. The Metropolitan Church of Señén was vacant due to the death of the Most Reverend Monsignor Celestine Zini, the last Archbishop of that see, who died outside the Roman court, with the favor of the Most Reverend Father Benedict Thomas, Bishop of Fesulano. The Archdiocesan Church of Ptolemaida was vacant due to the death of the Most Reverend Monsignor Carmel Pascucci, the last Bishop of that see, who died outside the Roman court, with the favor of the Most Reverend Father Lawrence Passerini, a priest of Cortona. He was born of legitimate, Catholic, and noble parents in Cortona, and having reached the age of five years past fifty, he obtained a doctorate in theology at the Gregorian University, and in both laws at the Pontifical Roman Seminary. He served as an auditor of the Consultative Tribunal of the Right, of the Signature of the Papal Court, and as a consultant in the Congregations, both for resolving the decrees of the Council of Trent, and for propagating the Christian name. He was attached to the House of the Pontiff and resigned as the highest Master of the College of the Holy

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Spirit. The Cathedral Church of Madrid-Alcalá de Henares was vacant due to the translation of the Most Reverend Father Cyriacus Maria Sancha and Hervás to the Metropolitan See of Valencia, with the favor of the Most Reverend Father Joseph Mary de Cos and Macho, Archbishop of Saint James of Cuba. The Cathedral Church of Novara was vacant due to the translation of the Most Reverend Father David Riccardi to the Metropolitan See of Turin, with the favor of the Most Reverend Father Edward Pulciano, Bishop of Casale Monferrato. The Cathedral Church of Forosempronio was vacant due to the death of the Most Reverend Monsignor Alexius Biffoli, the last Bishop of that see, who died near the Roman court, with the favor of the Most Reverend Father Vincent Franceschini, a priest of the diocese of Ripana. He was born of legitimate, Catholic, and honest parents in Cryptis, near the sea, in the diocese of Ripana, and having reached the age of forty-eight, he was attached as a student to the Pontifical Seminary of Pius in Rome, and was awarded a doctorate in sacred theology and in both laws. He has hitherto held the second dignity of Archdeacon in the Chapter of Ripana, and has served as General Vicar in spiritual matters for the Sees of Ripana, once and again, and has performed the office of Visitor for the diocese of Ophyda Asculana in the Piceno Order of Saint Benedict, among... the Synodical Examiners of Ripana, and has been attached to the Sacred Congregation as a Protonotary Apostolic, as if participating.

[*Latin ed. p. 23*]

From the Consistorial Acts:

The Cathedral Church of Casale was vacant, due to the translation of the Reverend Father Edward Pulciano to the Novara See, with the favor of the Reverend Father Paul Mary Barone, a priest of the Turin archdiocese. He was born of legitimate, Catholic, and honest parents in the town of Cittadella, in the municipality of Augsburg-Turin, and, having reached the forty-eighth year of his age, he served for many years as a missionary in the Apostolic vicariate of Peking, where he received the order of the priesthood and, in the Genoese College of St. Thomas Aquinas, recently obtained a doctoral degree in sacred theology. He was then transferred by the Abbot of Saint Remi to Allium Intimelio, where he served as a vicarious, vicarius for the religious, director of the religious, synodal examiner, and ecclesiastical revisor. After the Abbot's departure, devoted to propagating the Christian name by the Sacred Congregation, he was chosen as a consultant to that Congregation, and was also added to the number of the Holy Father's chamberlains, and among the prelates of the Pontifical House, and was appointed Apostolic Administrator for the united dioceses of Zante and Cefalonia. The Cathedral Church of Laquedonia was vacant, due to the translation of the Reverend Father Francis Niola to the Archiepiscopal See of Caieta, with the favor of the Reverend Father Diomedes Constantio of the Order of Friars Minor of Saint Francis, from the Territorial Abbey of Monte-

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cassino. He was born of legitimate, Catholic, and honest parents, and, having reached the fiftieth year of his age, he was joined to the students of the Friars Minor of Saint Francis from his early youth, and served as a professor of philosophy and then of dogmatic theology in the Franciscan College and seminary of Alleghany, and later as vice-president, and then as president of St. Bonaventure. Chosen by the Province of the Immaculate Conception for secret missions to the New World, he administered the Cathedral Church of Le Havre for several years. The retired Apostolic Missionary has until now performed the duties of General Procurator for the Friars Minor Reformat in the Monastery of St. Anthony of the City. The Cathedral Church of Sarsina was vacant, due to the translation of the Reverend Father Darius Mattei Gentili to the Cathedral See of Città di Castello, or Tivernate, with the favor of the Reverend Father Henry Graziani, a priest of the diocese of Faenza. He was born of legitimate, Catholic, and honest parents in the land of Cotignola, in the diocese of Faenza, and, having reached the fifty-ninth year of his age, having recently received the sacred order of the priesthood, and having become a Doctor of both laws at the University of Bologna, he dedicates himself to ecclesiastical duties, especially to receiving the faithful of both sexes, and also the confessions of the religious. He has also ordered the printing of books entitled "L'uomo Apostolico" and others. He has performed the duties of an Apostolic Missionary, both in Faenza and in other dioceses. The Cathedral Church of Ventimiglia was vacant, due to the translation of the Reverend Father Thomas Reggio to the Metropolitan See of Genoa, with the favor of the Reverend Father Ambrose Daffra, a priest of the diocese of Tortona. He was born of legitimate, Catholic, and honest parents in the place commonly called Caneto, in the diocese of Tortona, and, having surpassed the fifty-first year of his age, he repeated theology in the diocesan seminary, served as spiritual director and rector, was a pre-synodal examiner, and until recently was a canon of the Cathedral of Tortona. The Cathedral Church of Massa was vacant, due to the death of the Most Reverend Joseph Morteo, the last of that bishop who died outside the Roman curia, with the favor of the Reverend Father John Baptist Boracchia, a priest of the diocese of Lünen. - Sarzana. He was born of legitimate, Catholic, and honest parents near the Church of the Holy Cross in the diocese of Sarzana.

[*Latin ed. p. 24*]

24. From the Consistorial Acts, at the age of forty-three, he was appointed as one of the Synodal Examiners for the diocese, and as the Vicarious Forane of that diocese. He also resigned from his position as Parish Priest and Prior of the church at Illicis, Lerici. The Cathedral Church of Burgos, dedicated to the Holy Sepulchre, was vacant due to the death of the Most Reverend Justin Poletti, the last Bishop of that see, who died outside of Rome, and was filled by the Reverend Raphael Sandrelli, a priest of the

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Arretine diocese. He was born in the place commonly called Vitiano, in the Arretine diocese, from legitimate, Catholic, and noble parents, and at the age of fifty-eight, having received the doctoral degree in both Canon and Civil Law from the Roman University, he resigned from his position as Professor of Philosophy at the Castilian-Florentine College, having previously served as Spiritual Director and, until now, as Parish Priest and Prior at San Martino in his own birthplace. The Cathedral Church of San Floro was vacant due to the death of the Most Reverend Francis Mary Ambrose Benjamin Baduel, the last Bishop of that see, who died outside of Rome, and was filled by the Reverend John Mary Francis Lamouroux, a priest of the San Floro diocese, by nomination of the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. He was born in the city commonly called Murat, in the San Floro diocese, from legitimate, Catholic, and honorable parents, and having surpassed his fiftieth year, he resigned from his position, having been devoted to the administration of his diocese, first as a Secretary to the Bishop of San Floro, and then as the General Vicarious in spiritual matters of that same diocese. The Cathedral Church of Engolismen was vacant due to the death of the Most Reverend Alexander Leopold Sebaux, the last Bishop of that see, who died outside of Rome, and was filled by the Reverend John Baptist Frérot, a priest of the Dijon diocese, by nomination of the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. He was born in the town commonly called Buncey, in the Dijon diocese, from legitimate, Catholic, and honorable parents, and at the age of sixty-two, having taught history in the small seminary of Dijon, and having exercised pastoral care in several places, especially in the place called "Chaiillon sur Seine," he resigned from his position as General Vicarious in spiritual matters of the city of Dijon and its diocese. The Cathedral Church of Atrebates was vacant due to the death of the Most Reverend Desiderius Joseph Dennel, the last Bishop of that see, who died outside of Rome, and was filled by the Reverend Alfred Williez, a priest of the archdiocese of Tours, for the same Church of Atrebates, by nomination of the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. He was born in the place commonly called Chinon, in the archdiocese of Tours, from legitimate, Catholic, and honorable parents, and having surpassed his fifty-sixth year, he resigned from his position, having previously served as Parish Priest of the place commonly called Yzeures, and then of another place called Amboise, and as General Vicarious in spiritual matters of the archdiocese of Tours, until now. The Cathedral Church of Namur was vacant due to the death of the Most Reverend Edward Joseph Belin, the last Bishop of that see, who died outside of Rome, and was filled by the Reverend Stanislaus John Baptist Deci-olière, a priest of the Tournay diocese. He was born in the place commonly called Marchienne-au-Pont, in the province of Belgium, Hainaut, and in the Tournay diocese, from legitimate, Catholic,

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and honorable parents, and at the age of fifty-three, he resigned from his position, having served as Professor of Sacred Eloquence, Pastoral Theology, and Ascetics in the minor seminary of Eughien, and in the major seminary of Tournay, and having been appointed Director and President of that same sacred institution.

[*Latin ed. p. 25*]

FROM THE CONSISTORY ACTS, 25. The first canon, responsible for the ornaments of the Chapter of Tournay, and currently holding that title, has also resigned as Assessor of the Vicariate. The Collegiate Church of Colimen, in the territory of Mexico in North America, is vacant due to the death of the Reverend Father Francis Diaz, a bishop outside the Roman Curia. This vacancy is filled with the favor of the Reverend Alhenogenis Silva, a priest from Guadalajara. He was born of legitimate, Catholic, and honorable parents in Guadalajara, and having reached the forty-fourth year of his age, he recently received the doctorate in sacred theology. He was once a parish priest, then a professor of philosophy in the Tridentine seminary, and subsequently a professor of sacred Scripture. He strenuously defended the Catholic faith in the chair of the Holy Spirit, and he has resigned from the position of Canon Theologian of the Metropolitan Chapter of Guadalajara. The titular Episcopal Church of Samien, under the Archbishop of Ephesus, is vacant due to the death of the Reverend Father Benedict Mariani, the last bishop of that see, with the favor of the Reverend Julius Tonti, a priest of Rome. He was born of legitimate, Catholic, and honorable parents in Rome, and having reached the forty-eighth year of his age, he recently received the doctorate in philosophy, theology, and both laws. He served as the prefect of sacred theology at the College dedicated to the propagation of the Christian name, acting as the predecessor and deputy of the Rector, and was devoted to the Sacred Congregation for the expeditious handling of ecclesiastical affairs outside the ordinary. He served as a secretary at the Apostolic Nunciature of the French Republic, and as an auditor at the Apostolic Nunciature in the kingdoms of Portugal and Algarves. Recently, he was appointed to the innermost chambers of His Holiness, and has now resigned as Apostolic Delegate to the territories of Santo Domingo and Venezuela. The titular Episcopal Church of Arcadiopolitan, under the Archbishop of Heraclea, is vacant due to the succession to the See of Leiden of the Reverend Father William Gordon, with the favor of the Reverend Aemilius Todisco-Grande, a priest of the Vigiliensis diocese. He was born of legitimate, Catholic, and noble parents in Vigili, and having surpassed the forty-eighth year of his age, he recently received the doctorate in sacred theology. He served as an adjunct at the philosophical-medical Academy of Saint Thomas Aquinas, as a pro-synodal examiner, and as a deputy of the diocesan seminary, and he has resigned from the dignity of Canon Theologian of the Chapter of Vigili, as well as from his previous position

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as Archpriest-Curate. The titular Episcopal Church of Mileten, under the Archbishop of Stauropolitan, is vacant due to the death of the Reverend Father Dominic Barata, the last bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Oswald Casali, a priest of the Camerino diocese; who was also appointed as a deputy to assist the Reverend Father Felicissimus Salvini, the Archpriest and Administrator of the Church of Camerin and Trci, in the performance of pontifical and other pastoral duties, all with his consent and willingness. He was born of legitimate, Catholic, and honorable parents in Camerino, and having reached the sixty-eighth year of his age, he subsequently obtained the doctorate in theology and both laws. He served as the senior deputy of the archdiocesan seminary, where he taught mathematics and physics, and he also taught physics at the university in his homeland. He was appointed as an Archdeacon, and then as a pro-synodal examiner, and as the general pro-Vicar for spiritual matters of the city and archdiocese of Camerino, and he has resigned from the titular Episcopal Church of Sionnen, under the Archbishop of Petren, due to the succession to the See of Metz of the Reverend Father Francis Ludovic Fleck, with the favor of the Reverend James Cardona and Tur, priests of the dioceses of Ibusen and Maiorica. He was born of legitimate, Catholic, and honorable parents in the diocese of Ibusen.

[*Latin ed. p. 26*]

26 FROM THE CONSISTORY ACTS, it is known that a man having surpassed the age of sixty years, among the most intimate members of His Holiness's household, having been added to the number, the Chaplain of the Royal Catholic Court and the Preacher of the Divine Word for the Kingdom of Spain, renounced his position. The titular episcopal church of Amalhusin, under the Archbishop of Salamina, became vacant through the succession of the Reverend Father Vincent Branda to the Cathedral See of Ugentine, with the favor of the Reverend George Montes, a priest of Saint James of Chile. He was born of legitimate, Catholic, and honorable parents in the place commonly called Illapel, now within the archdiocese of Saint James of Chile, formerly the diocese of Serena, and having surpassed the sixty-third year of his age, he had previously received the doctoral degree in sacred theology. He was a Canon Penitentiary in the Metropolitan Church of that archdiocese, and once, and again, when that See was vacant, he also performed the duties of General Vicar in spiritual matters, and also of Pro-Vicar Capitular. Then, Our Most Holy Lord made known the churches provided for in the form of a Brief, as follows: The titular archiepiscopal church of Tingen, for the Reverend Father Stephen Melchisedechian, who had renounced the Church of Erzerum of the Armenians. The Metropolitan Church of Westminster, for the Reverend Herbert Vaughan, promoted from the See of Salford. The Metropolitan

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Church of Athens, for the Reverend Joseph Zaffino, transferred from the Archiepiscopal See of Naxia. The Metropolitan Church of Saint Andrew and Edinburgh, for the Reverend Enea MacDonald, promoted from the Sees of Ergadia and the Islands. The Metropolitan Church of Agra, for the Reverend Emmanuel Alphonso Vanden Bosk, promoted from the See of Lahore. The titular archiepiscopal church of Caesarea of Pontus is vacant, due to the death of the Most Reverend Malachia Paul Sleindl, the last of that prelate, who died outside the Roman court, with the favor of the Reverend Father Anthony Sabatucci, Bishop of Thebes. The archiepiscopal church of Caesarea of Pontus, with the favor of the Reverend Father Joseph Maria Paschalis Vincent Granniello, a professed priest of the Congregation of Regular Clerks of Saint Paul, the Barnabites. He was born of legitimate, Catholic, and honorable parents in Naples, and having surpassed the fifty-eighth year of his age, he was attached to the Congregation of Regular Clerks of Saint Paul, the Barnabites, from his early youth, and there he solemnly pronounced his vows in his college of Saints Blaise and Charles in Rome. For many years, he taught the disciplines of sacred theology to the young men of the Barnabite Sodality, and he also served as Procurator General, and he also presided over the general assemblies of his own Congregation held in Rome. He was a Counselor of the Sacred Congregation of Indulgences, and he was also an assistant of the Sacred Roman and Universal Inquisition in examining and investigating crimes. He was among the Judges, either for books to be noted, or against heresy, and then he was a Consultant of the Sacred Council for interpreting the decrees of the Council of Trent, and then he was placed in charge of the extraordinary congregations for the affairs of the Church, and most recently he was chosen by the Acts of the Sacred Council of Bishops and Regulars. The archiepiscopal church of Pelren is vacant, due to the assignment of the title of Saint Mary in Transpontina to His Most Eminent and Reverend Lord Aloysius, Cardinal Ruffo of Scilla, with the favor of the Reverend Father Jerome from the Immaculate Conception, the General Prefect of the Order of the Discalced Carmelite Fathers.

[*Latin ed. p. 27*]

FROM THE CONSISTORIAL ACTS: Reverend Father Jerome, of the Immaculate Conception, in the world John Anthony Benedictas Gotti, born of legitimate, Catholic, and honorable parents in Genoa, and having reached the fifty-eighth year of his age, having fulfilled the duties of Lecturer in Philosophy and Theology, and of Professor of Mathematics in his Order, having served as Procurator General, and having been elected General Prefect, and still holding that office, having resigned from the Congregations of Propaganda Fide for the affairs of the Oriental Rites, and from the offices of Episcopal and Regular Consultor to the Supreme Universal Roman Inquisition, he has been appointed Examiner of the Roman Clergy. The titular

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Archbishopric of Thebes is assigned to Reverend Father Ladislaus Zaleski, Apostolic Delegate in the Orient. The Cathedral Church of Antioch in the Colombian Confederation of South America is vacant, due to the death of the Reverend Monsignor Jesus Maria Rodriguez, the last Bishop, who died outside of Rome, with the favor of Reverend Father Francis Maria John Nepomucene Rueda, titular Bishop of Sebastopol. The Cathedral Church of Medellin, in the jurisdiction of the United States of Colombia in South America, is also vacant, due to the transfer of Reverend Father Bernard Herrera Restrepo to the metropolitan See of Saint Faith of Bogota, with the favor of Reverend Father Joachim Pardo Vergara, elected Bishop of Pasto. He was born of legitimate, Catholic, and honorable parents in Bogota, and having reached the forty-ninth year of his age, having for many years served as Professor of ecclesiastical history in the archdiocesan seminary, having held the office of Secretary, and having served two Archbishops during the most difficult times of that republic, he has resigned from the office of Canon of the Metropolitan Chapter of the country. The Cathedral Church of Pasto in the Colombian Confederation of South America remains vacant, due to the transfer of Reverend Father Ignatius Velasco from the Society of Jesus to the Metropolitan See of Saint Faith of Bogota, for which Reverend Father Joachim Pardo Vergara, a Priest of Saint Faith of Bogota, was elected, but who did not accept the office of consecration, nor did he obtain possession of it, in the Secret Consistory of June 4, 1891. Reverend Emmanuel Joseph de Cayzedo and Cuero, born of legitimate, Catholic, and honorable parents in the city of Saint Faith of Bogota, and having surpassed the forty-first year of his age, having been attached to the students of the American College of the Lateran in Rome, and having fulfilled the office of Prefect there, having returned to his homeland, and having served for some time as a Parish Priest, he has been appointed Pro-Rector of the archdiocesan seminary, Secretary of the Archdiocesan Curia, and Confessor to the Sisters of the Presentation of the Blessed Virgin Mary. The Cathedral Church of Angra is vacant, due to the death of the Reverend Monsignor Francis of Sousa Prado de Lacerda, the last Bishop, who died outside of Rome, with the favor of Reverend Father Francis Joseph Ribeiro de Vieira and Brito, a Priest of the archdiocese of Braga, for presentation to the Most Faithful King of Portugal and the Algarves. He was born of legitimate, Catholic, and honorable parents in the parish, commonly called Rendufinho, of the archdiocese of Braga, and having reached the forty-second year of his age, having served as Professor of Theology in the Braga seminary, having been a Canon of that Primatial See, and having been General Vicar in spiritual matters of the same archdiocese, he has resigned. The Cathedral Church of Salford is assigned to Reverend Father John Bilsborron, Canon of the Chapter of Liverpool. The titular Episcopal Church of Alinda is assigned to Reverend Father Alexander Le Roy, of the Congregation of the Holy Spirit and the Sacred Heart of the Blessed Virgin, Delegate in the Apostolic

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Vicariate of Gabon in Central Africa.

[*Latin ed. p. 28*]

It is recorded in the Consistorial Acts:

The titular Episcopal Church of Uranopolis, for the Reverend Father Joseph Martin of the Society of the Most Holy Hearts of Jesus and Mary, commonly known as Piepus, chosen as Apostolic Vicar of the Marchisian Islands in Oceania.

The titular Episcopal Church of Panopolis, for the Reverend Father Gulstan Francis Rapen of the aforementioned Society, appointed as Apostolic Vicar of the Sandwich Islands in Oceania.

The titular Episcopal Church of Germanicopolis, for the Reverend John Comny, General Vicar and parish priest of the diocese of Laon, Killala, chosen as perpetual Coadjutor to that Bishop, the Reverend Father Ugon Conway.

The titular Episcopal Church of Hippo Diarrhytus Zaritos, for the Reverend Father John Joseph Tournier, Archdeacon of the Chapter of Carthage.

The titular Episcopal Church of Tuburbseîn, for the Reverend Stephen Julius Gazaniol, Archdeacon of Tunis.

The titular Episcopal Church of Ruspae, for the Reverend Spyridion Polomèni, Archdeacon of Sfax.

The titular Episcopal Church of Elusa, for the Reverend John Baptist Fallize, recently elected by His Holiness as Apostolic Vicar for Norway.

The titular Episcopal Church of Anastasiopolis, for the Reverend John Von Euch, from the Prefecture of Denmark, to the newly established Vicariate Apostolic of the same name.

The titular Episcopal Church of Adresa, for the Reverend Father Anthony Fantosati of the Reformed Minor Orders, appointed as Apostolic Vicar of Southern Ho-nan in China.

The titular Episcopal Church of Amastrian, for the Reverend Father Michael Francis Howley, elected to the most recently established Apostolic Vicariate of Saint George in Newfoundland, a region of Canada.

The titular Episcopal Church of Modrorum, for the Reverend Father John Michaud, chosen as perpetual Coadjutor to the Reverend Father Lewis de Goesbriand, Bishop of Burlington.

Finally, provisions were made for the delivery of pallia to the Churches of Toledo, Valentia, January, Senones, Senem, Westminster, Athens, Saint Andrew's, Edinburgh, and Agra.

[*Latin ed. p. 29*]

29 FROM THE HOLY CONGREGATION OF RITES IN MARSEILLES. Concerning the beatification and canonization of the Venerable Servant of God, Sister Anne Magdalene Remuzat, a religious professed of the Order

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of the Most Holy Virgin Mary. Regarding the doubt, "Whether a Commission for the Introduction of the Cause should be appointed in this case, and to what effect?" Anne Magdalene Remuzat, born in Marseilles in the year 1696, was a religious of the Order of the Visitation of the Most Holy Virgin Mary. Her outstanding virtues, especially her admirable piety and devotion towards the Most Sacred Heart of Jesus, as well as her ardent zeal in promoting the cult of the Divine Heart, both within the Order of the Visitation and among the people of Marseilles, brought her a most excellent reputation for sanctity. This reputation for sanctity, moreover, was supported by heavenly graces and miracles, which were said to have been granted by God through the intercession of this faithful servant, and after her death, which occurred in the year 1730, not only did it not cease, but it grew more and more marvelously. Therefore, the Most Reverend Bishop of Marseilles finally instituted an inquiry, with ordinary authority, into the reputation for sanctity, virtues, and miracles of the aforementioned Servant of God. After this was duly completed and presented to the Sacred Congregation of Rites, the Most Holy Pope Leo XIII graciously permitted that the matter of the signing of the Commission for the Introduction of the aforementioned Cause of the Servant of God could be considered in the same Sacred Congregation, in its ordinary session, without the intervention or vote of Consultees, even though less than ten years had elapsed since the presentation of the Informative Process in the records of the aforementioned Sacred Congregation. Hence, I, the undersigned, Prefect of the Sacred Congregation and Relator of this Cause, at the request of the Most Reverend Mr. Charles Nocella, Apostolic Protonotary, Postulator of this Cause, having considered the suppliant letters of the Most Serene Emperor of Austria, of many Illustrious Cardinals of the Holy Roman Church, of Most Reverend Prelates, and of other men distinguished by both ecclesiastical and civil dignity, in the ordinary session of the Sacred Congregation of Rites, at the Vatican.

[*Latin ed. p. 30*]

30. MARSEILLES. On the designated day, having assembled, the following question was proposed for discussion: Whether the Commission for the Introduction of a Cause should be formally established in this case, and to what effect? Furthermore, the Sacred Congregation, after mature deliberation and having heard the opinion, both orally and in writing, of the Reverend Father Augustine Caprara, Promoter of the Sacred Congregation, decided to respond: AFFIRMATIVE, IF IT PLEASES THE MOST HOLY FATHER. December 19, 1891. Having faithfully reported all of the above to His Holiness, Pope Leo XIII, the Most Holy Father approved and confirmed the decision of the Sacred Congregation, and deigned to formally establish the Commission for the Introduction of the Cause of the Venerable Servant of God, Anne Magdalene Remuzat. December 24, of the

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same month and year. CAL Card. ALOISI MASELLA, S. R. C., Prefect. L. * S. VINC. Nussi, Secretary. The life story of Magdalene Remuzat, born to the most pious parents, Anne Constans and Hyacinth Remuzat, in the city of Marseilles, was baptized on the day of her birth, which was November 29, 1696. Her parents were among the wealthy and honorable merchants of Marseilles. The ancient faith and religion of the Remuzat family, inherited from their ancestors, were well known in the city. Indeed, no institution of Christian piety in that city, which was otherwise very prosperous, had not been fostered by the zeal, work, and resources of these same people. It is worth remembering the devotion to the Mother of God under the title of Our Lady of Laus, which was greatly enhanced by their piety; and it is not without divine providence that Magdalene, who was destined for the noble mission of spreading devotion to the Sacred Heart of Jesus, was born from this family, which had so diligently worked to promote the devotion to the Virgin Mother of God. Even today, among the local inhabitants, the tradition persists that a prodigious light, like a shining star, appeared near the castle of la Glacière, which belonged to the Remuzat family, at the birth of the Servant of God, and that this light shone brightly throughout the day.

[*Latin ed. p. 31*]

MARSEILLE. 31. Desde muy temprana edad, esta joven demostró signos extraordinarios de virtud. Especialmente destacó por su modestia. No era por una simple ingenuidad infantil, sino por un cierto sentido y cuidado de su virginidad, que la hacían sentir incómoda y se esforzaba por evitar, con todas sus fuerzas, los abrazos, que a veces se buscaban con juegos o favores. No era raro encontrarla en un rincón apartado de la casa, arrodillada en oración. Desde esa edad, todos predecían que la joven tenía un espíritu inclinado a todas las virtudes. Los padres, diligentes en sus deberes, buscaron con empeño que los designios de Dios se cumplieran en esta joven. Sin embargo, como era de naturaleza vivaz, la joven pareció resistirse un poco al yugo de la obediencia y la moderación, y se inclinó un poco hacia el estudio de las vanidades. Pero pronto superó esto, siguiendo el ejemplo de su muy piadosa madre, que se levantaba temprano para instruir diligentemente a su hija en la disciplina de las virtudes cristianas. Cuando tenía poco más de ocho años, solicitó repetidamente a sus padres que la permitieran ingresar al monasterio del Tercer Orden de Santa Clara, donde era costumbre admitir a las jóvenes que deseaban abrazar la vida religiosa. Sus padres no se lo permitieron. Poco después, solicitó y obtuvo que la encomendaran a las religiosas de otro monasterio de la Visitación, como alumna. Al entrar en el monasterio, pareció rebosar de una alegría inefable, como si finalmente hubiera encontrado la paz del alma que tanto anhelaba. Allí, no solo fue un ejemplo para las otras alumnas, sino también para las mismas religiosas, en su estudio de todas las virtudes, especialmente en la piedad, la obediencia y la observancia de las reglas. En ese

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tiempo, Magdalena cometió una pequeña falta, que, como Dios quiso, fue una oportunidad para que ella abrazara con entusiasmo el camino de la perfección. Magdalena, sin que nadie se diera cuenta, tomó en secreto unos pequeños ovillos de hilo de seda, destinados a un trabajo femenino, cuyo uso le había sido prohibido. Cuando fue interrogada, negó y suplicó que no se le atribuyera nada. Pero, al verse frente a una tabla que representaba la traición de Judas, fue iluminada repentinamente por una luz divina. Conmovida por un dolor de espíritu muy vivo, corrió llorando a la iglesia. Allí, Dios la esperaba. El adolescente vio a Cristo Jesús, llevando la cruz sobre sus hombros, y, con una expresión a la vez grave y misericordiosa, le dijo: "Hija, ¿cuánto me has entristecido?". La joven permaneció durante mucho tiempo sin poder hablar, hasta que, recuperando la compostura, pidió perdón y expió su pecado.

[*Latin ed. p. 32*]

32. MASSILIEN. She pleaded with tears... It is fitting to argue from this very fault, which merited so great a grace of mercy, which, having been received by her soul from God, called her to the highest summit of sanctity. It is scarcely possible to say how ardently and with what devotion she longed to receive Christ Jesus in the Eucharist for the first time. Not only did she yearn for Him with all the desires of her heart, but, as if snatched away by His love, she vainly struggled to restrain her sighs and tears. Her companions, astonished at what angered her spirit, inquired. "What is the matter?" she replied, but you know yourselves; I shall receive my God as soon as possible! I cannot think of my happiness without shedding a torrent of tears!"... Truly wondrous and a most rare gift, even in the lives of the Saints, this gift of tears in that age. But her piety increased day by day. She devoted a long time to prayer before the Blessed Sacrament, in which exercise she found incredible delight. She seemed to be almost failing from the desire for the Eucharist, and she obtained permission, in accordance with the customs and circumstances of the time, to receive it every day, even on festive days. She also burned with a fervent zeal for penance, and from that time on, she did not use whips or other instruments of mortification. Above all other exercises of virtue, she showed herself most devoted to obedience, and therefore, she readily abstained from prayer and from any bodily penance, as pleasing to her superior. It pleased God to reward so much fidelity in His handmaid, and finally to reveal the designs of divine providence to her. Almost five years after entering the monastery, when the Servant of God was in her twelfth year, Christ the Lord again deigned to show Himself to her. After speaking to her, as He is wont to speak to those He loves, and as a friend converses with a friend, and after revealing the desire to find a victim who would offer herself in His love: "You are the one, my daughter," He said, "whom I have chosen as a victim." Who can express the feelings of a loving heart when the voice of God deigns to speak to a

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creature? From this, indeed, flowed that insatiable desire to suffer, which was one of the distinctive characteristics of her sanctity. This very desire to suffer, scarcely fulfilled for five months, began to torment and distress her more and more each day. She so earnestly requested tribulations from God that she was not long in being heard. Peace, joy, and spiritual...

[*Latin ed. p. 33*]

MARSEILLES. Thirty-three delights vanish; aridity arrives, doubts, and disgust for piety; she is tormented by the most grievous anxieties concerning the very truth of the revelations she had received, until, if it please God, a suitable guide for her conscience is provided, who might demonstrate the safe path amidst so much darkness. Thus, led by extraordinary means, the Servant of God, so that she might find a leader for her conscience, returns temporarily to her paternal home, by the counsel of her Superiors. She places all her trust in the discipline of Father Milley, of the Society of Jesus, renowned for his doctrine and sanctity. The most learned men, and the Bishop of Marseilles himself, Monsignor de Belsunce, examine her spirit and the participation in supernatural gifts; and all unanimously believe that God has truly spoken in her ears. She remained at home for two years, and lived there piously. She devoted all her time to prayer and to the exercise of works of external charity. But God called her to solitude, that He might speak to her heart. With the counsel of her spiritual directors and especially of the Bishop of Marseilles, the Servant of God, unaware of her parents, whose opposition she had foreseen, left home, so that she might choose a place where she would be held by no bonds of affection. First, she entered the Visitation Monastery on October 2nd of the year 1711, at the age of fifteen. She consoled her parents so sweetly and effectively concerning her departure from her illness, that they immediately and willingly consented to her wishes. Shortly afterward, with the unanimous support of the nuns, the Servant of God took the name of the Visitation and received the religious habit as a novice. After a year, she pronounced her religious vows and assumed the name Anne Magdalene. Never before had such a spirit of perfection flourished among young novices, whom the example of the Servant of God inflamed with virtue in a remarkable way. The senior nuns, holy women themselves, who then presided over the Monastery, were astonished by the Servant of God. However, these were wise guides, well-suited to her sanctity, who, having deeply understood the designs of divine providence, had experienced her virtue through extraordinary trials and almost continuous dangers, so that the more she increased in the good opinion of others, the more she humbled herself. In particular, Mother Gravier, the Mistress of the novices, although she clearly recognized the

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sanctity of the Servant of God,

[*Latin ed. p. 34*]

34. MARSEILLE. She maintained a stern and constant demeanor towards the young woman, and treated her as the most imperfect among the others, acting with the utmost constancy. She was, in a way, set aside for the instruction of new members, although this task seemed to be imposed upon her as a kind of penance. Furthermore, the ridicule of some of the members sometimes added to her distress. Moreover, she began again to be tormented by great spiritual anxieties, so that, with God's permission, she might be instructed in the discipline of perfect immolation. However, the Handmaid of God, amidst all these dangers, not only did not fail in the fulfillment of her duties, but she displayed such constancy, such equality, and such cheerfulness of spirit, that no one suspected the turmoil within her soul. While still in her novitiate, she perceived, by divine light, the imminent danger of the damnation of two souls, who, after having devoted themselves to God, persisted in sin. Magdalen, as events would prove, would have many such experiences in the future, and she would have to make satisfaction for the sins of others, especially for the sins of those who, having been called to a more perfect way of life, had scorned the grace of their vocation. On this occasion, in order to respond to the designs of the Divine Lover, and with the approval of her superior, she made a difficult vow to constantly perform that which she knew to be more pleasing to God. However, this was only a part, so to speak, of that hidden divine mission, the neglect of which was the principal object of the Handmaid of God's studies, labors, and sorrows, and the chief praise of her sanctity. Concerning the piety of the Handmaid of God towards the Most Sacred Heart of Jesus, and her zeal in promoting the devotion to the Most Sacred Heart of Jesus. A few months after taking her religious vows, on the third and twentieth day of the anniversary of the death of Blessed Margaret Mary Alacoque, the meritorious founder of the devotion to the Divine Heart, that is, on October 17, 1713, God deigned to reveal to His handmaid, in a particular manner and with a special insight, that He had chosen her long ago as a victim; namely, to continue the work divinely entrusted to Blessed Margaret, He called her to offer herself through her immolation for the souls of those who, bound to God by vows, were unfaithful to their vocation, and for the honor of the Sacred Heart of Jesus.

[*Latin ed. p. 35*]

MARSEILLES. 35. Through her efforts, the devotion to the Divine Heart was greatly promoted. From that day forward, considering herself a victim for the Divine Beloved, wounded in His Sacred Heart by the sins of men, she desired to live and suffer only for the expiation of sins and to kindle the fire of divine love among men. To lack nothing of the condition of a

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victim, she merited, through the burning of a stigmata, a share in the pains of Christ, both in body and in soul. She was afflicted by illnesses for a long time, until death; she added to these voluntary afflictions of the flesh; she abstained from all lawful pleasures, and she often spent several nights praying. Through these things, especially, she obtained countless conversions, knowing supernaturally the deplorable condition of those she converted; she was saddened to the point of death if, as sometimes happened, they remained hardened in their wickedness. But at the same time, God called upon her to increase the devotion to the Divine Heart, and, in order to prepare the way for such an apostolate, He began to glorify her before men. Seeing how diligently Sister Anne Magdalene labored for the glory of God and the salvation of her neighbors, and how she spared nothing in fervor of spirit and observance of the rules, the Mother Superior ordered that all who wished to speak with her should be received. Although the Servant of God was inclined to solitude, she readily agreed. The fame of her sanctity had already spread widely, and people came from all sides seeking her counsel. Her words were received as oracles, and many were inflamed with a love for Christian perfection. Her principal object of apostolate was the devotion to the Most Sacred Heart; she spared no pious efforts, nor fervent exhortations, to add adorers to that most beloved devotion. However, the devotion to the Most Sacred Heart was still confined within the limits of the monasteries of the Order of the Visitation, or was practiced privately by the faithful. Revealing to Sister Anne that the wrath of the Almighty would fall upon the city of Marseilles because of the corruption of morals and the decline of faith, God inspired her to prepare the way for mercy through the public propagation of the devotion to the Most Sacred Heart of Jesus in the city. Thus, she laid the foundations of a pious confraternity of the faithful, who would practice a special devotion, and especially in spirit, for the reparation of the Most Sacred Heart of Jesus. This confraternity was established in the church of the monastery. The rules of this confraternity are:

[*Latin ed. p. 36*]

36. MARSEILLES. She took care to have these [prayers] compiled and printed. She was assisted in this endeavor by the Superiors of the Visitation Monastery; she appointed her confessor, Father Moilley, S.J., and the Bishop of Marseilles, de Belsunce, as advisors. Many considered this undertaking to be a difficult and unlikely success, given that such an institution in the city of Marseilles, so involved in commerce, and that similar pious institutions had previously not been very successful. However, contrary to all expectations, the plan of the Servant of God was received with great favor, as if with the applause of joy. A large crowd gathered at the monastery to give a name to the pious Sodality. The Servant of God reminded each member of their duties in the institution, and she inflamed them with a

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suitable and effective love for the Most Sacred Heart. At certain times and on certain days, the members would gather in the church of the monastery to adore the Most Sacred Heart of Jesus. In a short time, the number of members in Marseilles grew to fifty thousand. However, the desires of the Servant of God were not yet fulfilled, for throughout her life she longed for the Kingdom, as she herself said, and for the triumph of the Divine Heart through the institution of a solemn feast in His honor, to be celebrated throughout the Church by order of the Apostolic See. Meanwhile, Sister Anne was increasingly assured by God that this would be done for the diocese of Marseilles, in anticipation of a calamity soon to come. A few days later, in the church of the Friars Minor of the Observance of Saint Francis, Jesus Christ, hidden in the Sacrament, visibly made Himself present under the form of a child. The Servant of God, supernaturally enlightened, prophesied that this would be the last warning before the scourge that God had threatened. The truth of this prophecy was confirmed by subsequent events. Two years later, the plague began to spread in the city of Marseilles, with such force that the number of inhabitants decreased to half. After being commanded by God to learn what was to be done to stop the plague, she was repeatedly assured that it was the divine will that the faithful should each consecrate themselves to honoring the Heart of Jesus according to a formula to be determined by the Bishop, and that a solemn feast should be instituted in honor of the Divine Heart the day after the Octave of Corpus Christi. The Bishop had previously ordered several acts of piety and considered other measures to appease the wrath of God, but he had long been accustomed to acting through human means.

[*Latin ed. p. 37*]

MARSEILLES: Having learned that thirty-seven thousand slaves of this city were to receive celestial graces, he immediately became an executor of the divine will. Thus it happened that, by episcopal decree on October 22, 1720, a solemn feast in honor of the Most Sacred Heart of Jesus was instituted to be celebrated perpetually throughout the entire diocese of Marseilles, and the feast of All Saints was to be observed for the public consecration of the city and the diocese to the Divine Heart of Jesus Christ. However, the Servant of God, having been thoroughly instructed that in such a scourge, mercy is more fitting than justice, rejoiced greatly, saying: "Oh, blessed scourge! Which brings so much glory to my Savior!" On November 1, 1720, the entire city was gathered for the religious ceremony of consecration. Hope had banished fear. And hope did not deceive the people of Marseilles. Not only did the immense gathering of the people not spread the contagion, but from that very day, it began to diminish, until it was completely eradicated in a short time. There was no one among the people of Marseilles who did not attribute the cessation of the plague to a miracle, given these circumstances. And when, in 1722, the arm of the

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Almighty was again extended over the city of Marseilles, due to new and grievous sins, it must be attributed to the zeal of the Servant of God that the city was again delivered from the raging plague. By the advice of the Bishop, who, however, was guided by the advice of Sister Anne, the magistrates of Marseilles accepted a vow on behalf of the city, to attend Mass annually on the feast of the Most Sacred Heart, to be present at the Church of the Visitation, to receive the Divine Eucharist, and to offer candles. It is astonishing! As soon as the novena of prayers began in the Church of the Visitation, and they were barely completed, the plague disappeared, and soon after, a great flourishing of public health followed. From this, it is clear how much the devotion to the Most Sacred Heart of Jesus should grow in the hearts of the faithful, and how much the Servant of God has deserved for her promotion of the public cult of the same. From this arose, first, the emulation of the sacred prelates, especially among the people of Gaul, to consecrate individual dioceses to the Divine Heart. The Servant of God never ceased to strive to foster the growth of this devotion, especially through the institution of new sodalities. She especially sought to incorporate religious communities of both sexes into the sodality, so that the fervor of many might be kindled, according to the divine will.

[*Latin ed. p. 38*]

38. MASSILIAE. He did not confine his apostolate to the city of Massiliae alone, but extended it to all the neighboring cities and towns, and in a short time, spread it throughout all of Gallia, even to the farthest East, to the lands of India, and to the shores of Americae. However, all these things, which were achieved during the lifetime of the Servant of God, were merely the forerunners of the most noble devotion, which we now rightly commend and celebrate throughout the nearly entire Catholic world with great piety. Moreover, the future growth of this same devotion was not unknown, although it still encountered considerable opposition in Romae, due to a certain appearance of novelty. And indeed, not long after the death of the Servant of God, the Congregation of Sacred Rites, under Clement XIII, granted approval for the feast in honor of the Most Sacred Heart, as well as the proper Office and Mass, which had previously been refused; and subsequently, Pope Pius IX, at the request of the Gallic episcopate, introduced the feast of the Most Sacred Heart into the Roman Liturgy, by decree of August 23, 1856. From that day forward, we have witnessed the devotion to the Most Sacred Heart of Jesus grow and flourish, which leads us to hope for even greater things in the future. This is what the mission of Sister Anna aimed for. And while the first honors for the introduction of the devotion to the Divine Heart into the Church are rightly due to Blessed Margaret Mary Alacoque, who received the first revelation concerning its introduction, next follows Sister Anna Magdalena Remuzat, divinely chosen to promote public piety among the faithful towards this very devotion.

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She, who had previously been hidden within the confines of monasteries, revealed herself first in the city of Massiliae and throughout the entire nation of Gallia, through the zeal and work of our Servant of God, and then spread throughout the Christian Republic. How the Servant of God attracted the eyes of the Divine Lover with the splendor of her virtues, and how she deserved to be honored with heavenly gifts, will be clearly seen from the account of her heroic virtues and supernatural gifts. Concerning the Theological Virtues. Concerning Faith. The entire life of the Servant of God was so imbued with the spirit of faith that no action of hers can be found that is not illuminated by this virtue. "It was easy to see," said Mother Nogaret, "that...

[*Latin ed. p. 39*]

MARSEILLES. 39. Una viva fede e una ardente carità animavano tutte le azioni di questa cara Suora; perciò aveva un dono particolare per ispirare sentimenti di fede, sia alle sue allieve, sia ad altre persone, con cui entrava in relazione. Mostrò perfetta obbedienza e riverenza a Gesù Cristo, al Vicario di Gesù Cristo, ai prelati ecclesiastici, e a coloro che moderavano la sua anima. È sorprendente che, sebbene illuminata dalla divinità, non si sia mai azzardata a intraprendere nulla senza il voto e il consiglio della sua coscienza spirituale. Fu una nemica ferocissima degli errori riguardanti la fede. Attraverso il culto del Sacro Cuore, ampiamente diffuso, riuscì a sradicare l'eresia giansenista dalla diocesi di Marseilles, come aveva promesso il Signore Gesù Cristo. Non una volta, ma più volte, riportò alla verità alcune persone infette dagli errori dei giansenisti. A causa di questo, fu odiata dai giansenisti, che, sebbene dopo la sua morte, osarono detrarre la sua memoria. Quanto allo spirito di preghiera? La sua vita fu caratterizzata da una grande e incessante preghiera; questo era il suo unico sollievo. Trascorreva più notti a settimana in preghiera. Anche quando si dedicava a opere esterne, teneva sempre presente la presenza di Dio. Soprattutto negli ultimi anni della sua vita, visse in intima unione con Dio. La sola vista di lei mentre pregava aumentava la fede degli altri. Quanto alla sua fede nei confronti del Santissimo Sacramento dell'Eucaristia? A cui, inizialmente, si preparava con preghiere e lacrime. Il cui desiderio ardeva sempre più ogni giorno? Di cui, a causa dell'amore, sembrava consumarsi e prosciugarsi completamente? Venerava la Vergine Maria con filiale pietà. La onorava con molte preghiere, con pratiche pie, e in particolare con la recita quotidiana del Rosario. Venerava il mistero dell'Immacolata Concezione con particolare devozione. A causa della sua pietà verso la Beatissima Vergine, meritò di essere rinfrescata nei giorni festivi con rivelazioni sacre e visioni celesti. Venerava con particolare devozione il purissimo Sposo della Vergine e San Francesco di Sales, il Fondatore dell'Ordine della Visitazione. Li scelse come suoi patroni, tra gli altri santi, che si dedicavano alla salvezza delle anime. Invocava con somma pietà i suoi Angeli Custodi, e ricevette da

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loro grazie speciali. Parlava con fervore di cuore e con chiarezza di mente riguardo alle cose pertinenti alla fede. Infatti, era molto semplice...

[*Latin ed. p. 40*]

40. MARSEILLES. Her faith, illuminated by profound understanding concerning the principal mysteries of the Christian religion, and moreover, sufficiently confirmed by familiar acquaintance with most learned and devout men. Certain theological notions found in her writings exhibit a remarkable conformity with ecclesiastical doctrine. "She possessed the gift," so the Bishop of Marseilles related, according to a certain witness, "of making herself understood by all, expressing the highest and most sublime thoughts; the spirit of God appeared in all that she wrote." The heroism of this virtue shone forth above all others in the Servant of God, from the zeal with which she burned, so that the Heart of Jesus might be loved everywhere on earth. She devoted her strength, her studies, and her entire life to the propagation of this devotion. However, it would be superfluous to inquire whether she was endowed with heroic faith, which prepared her soul so that she might be a voluntary and perpetual victim for the sins of others. Concerning Hope. The Servant of God, in her studies and labors undertaken for the propagation of the devotion to the Most Sacred Heart, which indeed filled her entire life, did not experience contrary opinions and obstacles from men. However, this does not detract in any way from the merit of that hope which she earned from the very undertaking and execution of the work. Indeed, the splendor of this merit grows from the difficulties which, according to past examples, were reasonably to be feared. In particular, the institution of a Sodality in honor of the Divine Heart seemed to present immense difficulties in the city of Marseilles, held captive by the lust for pleasures and business, and not lightly involved in the errors of the Janseniists. Many dissuaded the Servant of God from such a plan. But neither the difficulty of an easier path, nor the opposition of men's sentiments, weakened her spirit. Trusting in God, she eagerly undertook to establish the Sodality, and happily, as we have seen, she accomplished it. Her trust in God, however, did not degenerate into presumption. She supported the divinely accepted mission with the counsel of prudent men, and she constantly hoped for help through constant prayer, and especially through the reception of the Eucharist. Her own letters can demonstrate how invincible a trust she placed in the merits of Jesus Christ, and how eagerly she urged others.

[*Latin ed. p. 41*]

MARSEILLE. 41. To those who, safely in the hand of the Lord, dared to sin against themselves. Many flocked to her in their distress, imploring solace, and none left without being refreshed. She often sought refuge in the safe haven of the Heart of Jesus, even when tormented by the anxieties

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of conscience. She said that the pains of hell surrounded her, yet she did not lose hope. "Although God may seem severe with me," she wrote, "I will not cease to hope in Him." And so she truly hoped, and thus deserved to become increasingly certain of attaining eternal blessedness. "The assurances that God gives me of the glory He reserves for me in heaven," she also wrote, "are becoming more frequent and more perfect." She longed to quickly dissolve herself, to be with Christ; but she restrained this desire, considering a higher perfection. The words of the Handmaid of God, as she was dying, sufficiently demonstrate that her hope was heroic, all the more so as she approached the end of her life and the promised blessedness. Concerning Charity towards God. If the words of the witnesses are briefly recounted, one could rightly ask, not whether the Handmaid of God heroically possessed this virtue, which is, as it were, the *forma* [form] of all virtues, but rather, what can be found in her life from which it cannot be deduced that she did not love God with all her mind and with all her heart. The habits of mind directed towards God, constant thought and striving for eternal glory, with the supernatural concurrence of divine grace, elevated the Handmaid of God to that highest peak of contemplation, in which the spiritual soul seems to die to itself, so that it may live the life of Christ. Especially in the last years before her death, this operation of divine love permeated her entire being. She seemed to notice nothing of the sensible world. Her conversation was in heaven, and she herself was reduced to nothing and knew it not. "The last six years of her life were a continuous rapture: she was then raised to the most intimate union with God, entirely dedicated to His divine work, to such an extent that no external occupation could distract her. She wrote: 'I can scarcely pray without finding myself in a kind of rapture, which puts me in a state where I am unable to participate in what is happening externally. I feel a divine being, who dominates all my movements; my light, my occupation, my life is God.'"

[*Latin ed. p. 42*]

42. MARSEILLE. She was, he said, inundated with a torrent of sorrows and delights, and illuminated not only by the light of faith, but by a clarity which endowed her with the vision of God, which is more than earth and heaven. Her ardent zeal, with which she propagated the worship of the Divine Heart, should be considered as an act of love throughout her entire life, and as a particular form of that love, with which she burned more and more intensely for Jesus. "It was love," says a certain witness, "that made her an apostle of the Sacred Heart, to whose glory she consecrated her faculties, her talents, her time, her strength, her sanctity, her person, and her life; it was love that made her a victim of the Heart of Jesus, and the greatest sufferings were caused to her by the violence of such love." She was not drawn to action by the desire for spiritual pleasures, nor by the hope of rewards, nor by the fear of punishments, but by a desire to

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please God. "She loved God so purely for Himself, that she could truthfully write these words: It is enough for me to know that He is infinitely lovable, so that I may exert all my efforts to love Him; I seek Him, not His rewards; I do not fear displeasing Him out of fear of His punishments, but for Him alone." From this arose the horror of sin, and from it, the most ardent desire to compensate for the injuries done to God by sinners; from this, she became a victim for the sins and iniquities of others; from this, she undertook the arduous vow of striving daily for perfection, which she faithfully and zealously kept until her death. In the excess of her love, she was, as it were, infatuated by the force and intensity of her love, and she noted the image of the Holy Heart and the name of Jesus on her arm; in this way, she foreshadowed those wonderful graces with which the Divine Lover also wished to mark her outwardly, although she endeavored with all diligence to conceal them. But who could prevent the ardor of such charity from shining forth marvelously even outwardly? The divine fire with which she burned, especially when united with Christ through the reception of the Eucharist, she manifested through pallor, tears, and a flushed face. Sometimes, a wet cloth had to be placed on her breast, so that the ardor of her consuming love might be extinguished. "Obedience often had to intervene to limit the ardor of her love, which urged her to sacrifice her body and soul for Him." Finally, she fell ill, and in the midst of a most intense surge of love, she breathed her last, her soul being taken by that very force.

[*Latin ed. p. 43*]

MARSEILLE. 43. Indeed, all these things, although remarkable, do not fully exhibit the heroic charity of the Servant of God, which is primarily evident from the perfect observance of the commandments of God and the Church, from the perfect keeping of her vows, from the complete conformity with the divine will in great adversities, with which she was constantly afflicted. We have indicated more about these things when speaking of the virtues of the Servant of God in general; we shall say more below, if the opportunity arises. "It was the love of God, as the Witness praised, that from her youth made her observe the commandments of God, it was this love that made her embrace the practices of the evangelical counsels, that made her constantly strive for the highest degree of perfection..." "She was indifferent to everything except God; she had established a perfect order in her soul; her passions were perfectly subject to her will, and her will to the love of God. Thus, the vivacity and her sensitivity gave rise to such a constancy of mood that no change of character appeared in her; one could not distinguish her inclinations from her aversions, and she was always seen smiling amidst suffering, calm and mistress of herself amidst trial, no less than amidst consolation." Thus, elsewhere, the same Witness. It is fitting to conclude with another Witness: "She loved God so much from her

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childhood until the last moment of her life, that I find no words sufficient to express it properly. She evidently died in a transport of love for God. All the time of her life was a continuous act of such love." Concerning the reputation of sanctity in life. The most illustrious reputation of sanctity, which the Servant of God obtained while living, not only among the common people, but also among persons distinguished by knowledge, virtue, and dignity, is abundantly attested by contemporary documents, the essence of which is excellently summarized by Witness XX. "We have as witnesses and guarantors of the sanctity of Anna Maddalena her superiors who subjected her to all sorts of trials; her confessors, all men capable of distinguishing truth from falsehood; her Bishop, who watched over both the conduct of his penitent and that of the confessors; the entire Community, which for a period of about twenty years..."

[*Latin ed. p. 44*]

44. MARSEILLES. She observed and demonstrated her veneration for her to the greatest possible extent; finally, the entire city of Marseilles, which saw her and admired her. All these diverse sentiments form but a unanimous cry of praise for Anne Magdalene, and we must conclude that her sanctity is true and admired by all. "Indeed, from her very childhood, the fame of her sanctity shone forth. When she entered the monastery, she was already renowned for her virtues. When she pronounced her religious vows, the fame of her sanctity had already spread sufficiently beyond the confines of the monastery, so that many unexpectedly gathered for the sacred ceremony. This growing fame had the particular effect of drawing crowds to her for both spiritual and temporal needs. She was considered holy by all, and her words and counsel were received as oracles." "The general opinion, as Witness XV states, considered her a saint. Beginning with her Bishop, her directors, her Superiors, and the simple faithful of the city of Marseilles; all who knew her saw in her a chosen soul, honored with gifts and communications from God, and whose virtue was never ambiguous or common. It is well known and beyond doubt that she was of eminent sanctity. I find evidence of this in these words, so often repeated in the city of Marseilles during her life, and even when she was only twenty years old: 'She has said so, Sister Remuzat.' And in this other, which burst forth on the day of her death, almost as a general cry: 'The saint has died.'" "No one ever opposed the sanctity of the Servant of God while she was alive. Indeed, the opinion of her virtues was so established in the city of Marseilles that, when, not long after the death of Sister Remuzat, a perverse Jansenist envy attacked her reputation, the Bishop of Marseilles, de Belsunce, who defended her, was able to write: 'To speak in this way at the gates of Marseilles... this is the height of audacity and bad faith.' And further: 'It is well known in Marseilles that the ideas which have been held of the sanctity of Sister Remuzat have not changed in the least; that they are

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always the same; that her memory is always held in the same veneration.'" From this fame of sanctity, perceived and proven by all, the Servant of God was able to spread devotion to the Divine Heart so quickly and widely. Furthermore, it must also be noted, if supernatural phenomena...

[*Latin ed. p. 45*]

MARSEILLES. Forty-five gifts, with which she was endowed by God, though so extraordinary, that no one, while living, ever questioned them. The widespread fame of the virtues of the Servant of God, not only among the Religious Sisters of the Visitation, but also among the people of Marseilles, is sufficiently attested by the circular letter which was issued immediately after her death, by the letter of the Archbishop of Marseilles, which has been cited several times, and by the life of the Servant of God, written by an anonymous author, whose faith and authority we already know, and in which her individual virtues are recounted as a public testimony. Concerning the Precious Death of the Servant of God. The time of her foreseen death was approaching. Bodily ailments and sorrows of the soul, constant labors, and above all, the ardor of divine love, had exhausted the strength of the Servant of God. A subtle fever had afflicted her for a long time, and she was frequently troubled by a cough that erupted in bloody expectorations. Although she was suffering from a serious illness, she seemed to recover somewhat at the end of January. But on the sixth day of the following month, as the oppression in her chest increased again, she lay down on her bed, never to rise again. And so, as that which constituted the principal merit of her life, was also the chief cause of her death, when the torments of the illness were increased, both externally and internally, in a marvelous way. "Her physical and moral sufferings were excessive, to the point that she said, 'Everything is crucified in me; I would not have believed that God would grant me such a grace as to allow me to suffer so much; pray that I may make good use of it.'" Nevertheless, those who were near her did not suspect that the hour of death was so imminent. But the Servant of God knew it for certain. And she, who had always refrained from seeking death out of a desire for perfection, feeling it now approaching, could scarcely contain her joy. The immensity of her love for the Heart of Jesus, and the divine mercies, were the sole object of her thoughts and words, even to her last breath. She anxiously requested to cleanse herself through a penitential confession of her entire life. When the confessor refused, because of her weakness, she said, "Ah, my father, the Servant of God says, I am a sinner; he requires this of me, believe it!" She was transported to ecstasy by the sacrament of confession.

[*Latin ed. p. 46*]

46. MASSILIEN. When questioned about the preoccupation of her mind, she celebrated the mercies of the Lord, and she prayed that a word might

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flow from the Heart of Jesus. She repeatedly and earnestly urged the administration of the Sacraments of the Church, and she received them with a certain eagerness, as if with joy. "Is it then true that I shall see my God?" she asked her sister, who was standing nearby. And when the latter was weeping, she said: "Do not weep, dear Sister, rejoice in my happiness; for I shall soon see God, and the kingdom of sin will be destroyed in me: behold the happy moment in which I shall plunge and immerse myself in the Sacred Heart of Jesus!" At the very moment of death, she requested that, after the prayers had been offered, the litanies of the Most Holy Heart of Jesus be recited over her body. This was her greatest desire; and not long afterward, in one of those more intense outbursts of love, in which she was completely carried away until the moment of her death, she surrendered her soul to her Creator. Her death occurred in the morning of February 15, in the year 1730. Those who recount the words of an anonymous writer, describing the precious death of the Servant of God, deserve to be heard: "As soon as she received the Sacrament of the Most Holy Eucharist, she had one of those seizures which were so common to her. The ardor of divine love, which inflamed her, caused palpitations and heaving of the heart, which those present noticed. Love had made her live; it was to make her die. She produced acts of it with violent transports, and it was in these transports that she surrendered her soul to her Creator. This precious death, in the sight of God, occurred on February 15th of the year 1730, at 5 o'clock in the morning." The passage of the blessed soul to heavenly glory was made manifest in many and wondrous ways. Just as in the birth of the Servant of God, so also in her death, a certain unusual light shone from heaven over the *castello* de la Glacière, where her parents resided. The tradition, which is still preserved among the local inhabitants regarding this event, has witnesses who are summarized below. Sister Chataigner, who was sleeping near the room of the ailing Sister, suddenly awoke, and, admiring the prodigious light that flooded her room, she sensed that, just as with the Israelites, a light was about to be extinguished, and she hastened to the bedside of the Servant of God, who was already dying. This Sister, who had long suspected that some supernatural sign was imprinted on her body, soon after the death, discovered it on her chest, and, being more certain of the truth of the supernatural stigmata, she was confirmed.

[*Latin ed. p. 47*]

MARSEILLE. 47. Scarcely had the death of the Handmaid of God become known when the people, as if summoned by a decree, flocked to the monastery from all sides. The unanimous cry was: "The Saint is dead, the Saint is dead!" So great was the gathering of the people, and so intense the desire to see her remains, that, with the permission of the Bishop, the gates were opened, and the church and the entire monastery were filled with a vast multitude. Linens and pious offerings were brought to the body with-

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out interruption; pieces of clothing were offered; there was no limit, no end to the expressions of this popular veneration. The religious veil with which the body had been covered had to be replaced several times; access to the very cell had to be granted, which the piety of the people crowded. Indeed, it was with great difficulty that the body was carried to the burial, so eager were they to kiss and touch it. The remains of the Handmaid of God were transferred to the choir of the Religious, and there they remained exposed until the evening of the following day. On the morning of February 16th, the Bishop himself, in the presence of the body, celebrated Mass, together with the Cathedral Chapter, to complete the funeral rites of absolution and burial. There was no sign of corruption in the body, despite all the labors, austerities, and infirmities it had endured. The face was like a smile; the beautiful countenance was of a majestic appearance; the limbs showed no stiffness. After the chest was opened, a clear and red blood flowed from the body: this wondrous event was renewed three days after her death. Then, the Handmaid of God, with another physician present, had a section made in a vein in her arm. Those present vied to receive the miraculous blood flowing from the body, and the news of this spread, so that many, even from afar, sought to obtain some. It is certainly known where the place of burial was, where the body of the Handmaid of God was hidden, and it was kept there for a long time; but after the upheavals of the French Revolution, it was no longer found, nor did any trace of it come to light, despite long and diligent searches.

[*Latin ed. p. 48*]

48. OF CALAGURRIT and CALCEAT. Resolutions concerning doubts regarding the order of reciting the Divine Office. Most Reverend Lord Anthony Mary Cascaiares y Azara, Bishop of Calagurrit and Calceat, deeply concerned about the Sacred Liturgy, desiring that the Order of reciting the Divine Office and performing the Sacraments be most strictly in accordance with the Rubrics and the Decrees of the Sacred Congregation for Rites for the Clergy of the Diocese entrusted to him, humbly presented the following doubts to the aforementioned Sacred Congregation:

Doubt I. Do the Breviaries differ among themselves in assigning the Office of Saint Ildephonsus, Pope and Confessor? It is asked whether it should be "Sint lumbi vestri," as assigned in the Appendix of the typical Breviary published in Ratisbon in the year 1886, and in the Codex of the Saints of Spain, or "In medio," as in the Breviary of his own Archdiocese of Toledo, and for the common use throughout all of Spain?

Doubt II. In the Office of the Holy Wounds of Our Lord Jesus Christ, concerning the "R," the antiphon "Qui vulneratus es pro nobis," should it be recited according to the Breviaries and the Ratisbon Daily Office, or according to others published elsewhere?

Doubt III. Should the Breviary be corrected to conform to the Roman

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Martyrology in the final reading of the Office of the Holy Martyrs Hemetherius and Celedonius?

Doubt IV. Which reading should be followed for the final stanza of the Hymns of the Holy Heart of Jesus, or for the Office corresponding to the Mass "Egredimini," and for the Office corresponding to the Mass "Miserebitur"?

Doubt V. Which Rubric should be followed concerning the readings of the First Nocturn in the Office of the Blessed Virgins Justus and Rufina?

Doubt VI. And which Rubric should be followed concerning the readings of the First Nocturn in the Office of Saint Leocadia, Virgin and Martyr?

Doubt VII. Of the three readings presented for the Office of Saint Eulalia of Emerita, Virgin and Martyr, which is the authentic one?

Doubt VIII. Concerning the readings of the First Nocturn in the Offices of Saint Dominic of Silensis and Saint Nicholas of Tolentino, which occur together, what is the correct procedure to follow?

Doubt IX. Which reading should be retained for all of Spain concerning the proper prayers in the Mass of Saint Prudentius?

Doubt X. And what should be retained, or to which should one adhere, even for all of Spain, concerning the proper prayers in the Mass of Saint Paschal Baylon, and of Saint Nicholas of Tolentino?

[*Latin ed. p. 49*]

FROM S. CONG. RITUM, Question 49, Doubt XI. Setting aside particular concessions, what Mass should be celebrated universally on the feasts of St. Antoninus and Sts. Gabinus and his companions, and what Secret and Postcommunion should be recited? Doubt XII. Regarding the Mass of St. Germanus and the Mass of the Servants of God, should the Missal of Matritensis [Madrid] be followed throughout Spain, or the Codes of Ratisbonensis [Ratisbon], Taurinensis [Turin], and Barcinona [Barcelona]? And concerning the Missal of Matritensis, what Secret and Postcommunion should be recited? Doubt XIII. For the Mass of St. Raphael the Archangel, what reading should be followed throughout Spain? Doubt XIV. On the feast of the Innumerable Martyrs of Caesaraugusta, should the readings of the Code of Ratisbonensis or the Missal of Matritensis be used for the prayers in the Mass? Doubt XV. What Gradual is authentic for the Mass of Sts. Acislius and Victoria? Doubt XVI. For all of Spain, except for the Archdiocese of Toletana [Toledo], what Mass should be celebrated on the feast of St. Leocadius? Doubt XVII. Except for particular concessions regarding the Office of the Three Nocturns, and the Mass of Sts. Fructuosus and his companions, should the Codes of Ratisbonensis, Taurinensis, and Matritensis be followed throughout Spain, which assign the Homily on the Gospel "When you hear" and the Introit with one proper prayer: and in this case, what Secret and Postcommunion should be recited? Doubt

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XVIII. Should the Masses of the saints described under this number, and the proper Offices corresponding to those Masses, be considered common for all of Spain, or as particular to individual dioceses, for which they were originally granted? Doubt XIX. If a saint is permanently placed outside of his proper day in the approved Calendar by reason of an occurring Octave, should he be restored to his original day after the Octave has been completed, treating the day of the Octave as a simple day? And if this is not the case, should the same be said in the case of another saint, with the only difference being that it should be noted that, in this case, the saint should not be simplified, but should be permanently transferred to the first free day? And if the saint cannot be restored to his proper day in either case, should he at least have precedence over the saints before and after him, and should he be permanently placed in strict order of translation after his proper day? Acts, Volume XXV, page CCLXXXIX, 4.

[*Latin ed. p. 50*]

SO, ACCORDING TO THE SACRED RITUAL, QUESTION 20: How are the Vespers to be ordered when they coincide with a secondary feast of the Blessed Virgin Mary, namely the feast of Saint Gabriel the Archangel? QUESTION 21: Regarding the alteration of three verses of the hymn "Iste Confessor," which is not indicated for the feasts of saints described in the typical Breviary, is this a deficiency of the same, so that it must be supplemented in the annual calendar? QUESTION 22: Concerning the manner of announcing the Mass for a priest who wishes to celebrate only one or two Masses on the feast of the Nativity of the Lord, how is the clause appended to the decree of the Sacred Congregation of June 19, 1875, to be understood, namely, according to the particular rubrics of that day? QUESTION 23: Can it be considered in the city of Calagurritana that the feast of Saints Hemeterius and Celedonius, celebrated on March 3rd, is fixed as one of the more solemn feasts of precept, so that funerals and the solemn Mass for the Dead, with the body present, are prohibited therein, notwithstanding the decree of April 8, 1808, in Compostellana, and are Masses in a private oratory considered prohibited on the same feast in the aforementioned city of Calagurritana? QUESTION 24: Regarding the Masses that are prohibited in private oratories, besides the days enumerated by Father a Carpo in his Liturgical Work, are any other feasts, insofar as they are more solemn and of precept, to be included among the prohibited ones? QUESTION 25: When it is said in the Mass, "Oratio A cunctis," can the "Oratio pro Congregatione" and the "Familia, idest Défende?" be chosen? QUESTION 26: What rule must be observed regarding the inclination of the head during the Mass, whenever the name of a saint is mentioned, for whose Mass it is said, or who is commemorated: namely, at the beginning of the Epistle and Gospel, on the feast, for example, of Saint Paul or Saint Matthew, or also during the vigils of the saints? And which verse, place, or object should the

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head be inclined towards, even when the name of the Blessed Virgin Mary or the Supreme Pontiff is mentioned? QUESTION 27: On which days is it permitted to celebrate a Mass for the Dead over an unburied corpse, but in the absence of the body, due to civil prohibition and due to contagious disease? QUESTION 28: When, according to the Indult of Benedict XIV, priests in Hispania and Lusitania may celebrate three Masses in a day in commemoration of all the faithful departed, provided that they only receive the stipend for the first Mass (under pain of suspension):

[*Latin ed. p. 51*]

FROM SACRED RITUALS 51, it is asked: Which of the three Masses designated in the Indult, namely, 1 Mass as on a day, 2 as on an Anniversary, 3 as on Daily Masses, must a priest say in Hispania and Lusitania, who wishes to celebrate only one, on the day of the Commemoration of the Dead, whether he applies it for one [person] or not? And, if he wishes to celebrate two, which of the three is he obliged to choose? Question 29. Regarding the Nocturnal Office of the Good Thief, should the procedure be followed as prescribed in the Decree concerning Minorca of August 27, 1836, or as assigned in the Breviary, even the typical one of Ratisbon? Question 30. Can the aforementioned twenty-nine customs, more or less introduced from time immemorial in the Cathedral of Calagurritana, be tolerated, which the Bishop himself, adhering to Decrees of the Holy Roman Church and to the Ceremonial and Ritual of Rome, has previously condemned? Briefly, such customs are indicated: 1. On the more solemn days of Lent, the Mass is not sung, but read, and that in the High Altar, while in the Choir, the Sext and None are sung. Furthermore, the aforementioned Mass, although read, is said with the Sacred Ministers. 2. In sung Masses for the Requiem, even on the anniversary of the death, neither is the entire sequence *Dies irae* sung, nor even one verse. 3. On the Feast of Corpus Christi, and on the days within Octavam, a red pall is suspended in the middle of the Altar, resembling a large canopy, in the center of which is placed a throne for the Ostensorium. 4. In the Procession of the Blessed Sacrament, the Holy Eucharist is carried on the shoulders of several priests. 5. On the Feria of the Fourth of Ashes, the Canon does not celebrate, but a Dignitary imposes the ashes on the Bishop. 6. In solemn Masses (not for the Dead) celebrated by the Bishop, the seventh candlestick is not used. 7. In processions within the Church, in which the Bishop participates wearing a mitre, the Canons proceed with their heads covered. 8. When the Bishop celebrates the Divine Office pontifically, the Chaplain, whether the Bishop is reading or singing, holds the book. 9. During the time of the Passion, only the crosses of the altar are veiled, and certainly not the images. 10. After the Gospel of a solemn Mass, to which the Bishop attends wearing a cope, the Bishop who is not celebrating is incensed. 11. On the Feria of Holy Saturday, the procession

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returns from the altar.

[*Latin ed. p. 52*]

52. From the Ritual of the Burial Office: The Deacon assisting receives the Holy Eucharist from the hand of the Bishop, and not the Deacon of the Gospels.

12. On Holy Saturday, when proceeding to the blessing of the new fire and incense, the Subdeacon carries the Cross, another assists in chanting the Epistle, and indeed, with the candle-bearers.

13. The Presbyters carrying the relics proceed with their heads covered.

14. The incense is burned with two censers.

15. For the chanting of the Absolution near the tomb, in the absence of the body, the Subdeacon does not carry the Cross; instead, the Sacristan, having only received the tonsure, is placed in the middle between the tomb and the Altar.

16. If someone from the Chapter is ill, a Mass is sung for the sick person after Prime; then, another Canon chants, and the Mass that is sung is the same one from the Feast, sung after Terce.

17. In a sung Mass, two Missals are placed, one on the side of the Epistle, and the other on the side of the Gospel.

18. By concession of a privilege, which, as is said, is not certainly established, on Sunday within the Octave of the Saints Hemeterius and Celedonius, a Mass is sung for those same Saints, according to the form of a solemn Votive Mass.

To Question 1: It is to be maintained the reading that is found in the proper Archdiocese of Toledo, as it is more suitable and related to the Mass that is commonly assigned, namely, in the middle, especially for the entire Kingdom of Spain, in which Saint Ildefonsus is deservedly held in honor and veneration as a Doctor of the Church, although he has not yet been declared as such by the Holy See.

To Question 2: One must follow the Breviaries and the Ratisbonense Calendar.

To Question 3: The Breviary is to be corrected according to the norms of the Martyrologies, namely, on the fifth of the Kalends, so that it corresponds to the third of March.

To Question 4: According to the Decree in Turin, on September 12, 1857, namely, "Jesu tibi sit gloria" in the Office, which corresponds to the Mass "Egredimini," and in another Office, which corresponds to the Mass "Miserebitur," the conclusions of the Hymns are in no way to be altered.

To Question 5: One must follow the rubric that is read in the Codes of the Holy Spanish [Church].

To Question 6: The rubric of the Ratisbonense Code is to be maintained,

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as it is generally observed.

To Question 7: In the future, the rubric that is announced in the Ratisbonense Code is to be considered authentic.

To Question 8: In both cases, the readings are to be read, taking into account the age [of those present].

[*Latin ed. p. 53*]

From the Sacred Regulations, 53, paragraphs 9 through 26:

9. Except for the Dioceses of Calagurritan and Calceaten, the reading of the Ratisbon Code is to be retained.

10. The established practice is to be followed.

11. Notwithstanding any particular concessions granted to one diocese or the other, the Ratisbon Codes are to be observed in assigning Masses for both of the aforementioned Saints.

12. As in the preceding.

13, 14, and 15. The authentic reading of the Ratisbon Code is to be retained.

16. Except for the Archdiocese of Toletana, with regard to the Mass of Saint Leocadia, the reading to be observed throughout Spain is that which is found in the Ratisbon, Turin (Taurinensi), and Barcelona (Barcinonensi) Codes.

17. With the particular concessions for all of Spain observed, the Introit Mass is to be used, and the Secret and Postcommunion are to be taken from it.

18. Since it is not established that a decree extending the Masses described and the Offices corresponding to them to all of Spain exists, it follows that these Masses are to be celebrated as particular to the individual Dioceses to which they were originally granted.

19. Negative in all cases.

20. Postponed.

21. To be supplemented in the redaction of the Calendar.

22. The decree of June 19, 1875, is to be observed, namely, that the priest who celebrates only one Mass shall read the Mass corresponding to the approximate hour of the day, namely, the First Mass if celebrated in the middle of the night, the Second Mass if celebrated at dawn, and the Third Mass if celebrated after dawn.

23. According to the decree of December 12, 1867. Negative regarding the first and second parts.

24. Particular indulgences are to be observed.

25. Negative.

26. A bow of the head is to be made on the feasts of Saints only, whenever

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the name of those for whom the Mass is celebrated or who are commemorated is mentioned; but not at all in the beginnings of the Epistle and Gospel; and in order to direct the bow of the head towards the name of the Blessed Virgin, of other Saints, and of the Supreme Pontiff, it is to be directed towards the book or the name expressed in the book, unless there is a statue or image of the Blessed Virgin or of a Saint in the principal place of the altar, towards which, because they represent more explicitly, the head is to be bowed.

[*Latin ed. p. 54*]

54 FROM THE SACRED CANONS OF RITES, Section 27. A deceased body, absent due to civil prohibition or contagious disease, which is not only unburied, but also interred, provided it is not beyond two days from death, may be considered as if it were physically present, so that the funeral Mass may lawfully be sung whenever it is permitted with a present body. Section 28. Regarding the first Mass, as on the day of Commemoration; regarding the second, at will. Section 29. That which is prescribed in the typical Breviary must be observed. Section 30. The customs described are not entirely to be tolerated, but rather are to be considered as abuses and corruptions, and are to be suppressed by the Bishop for the most serious reasons, according to his prudence, gradually and thoroughly, except for the following, according to the resolutions that follow: Section 3. May be maintained. Section 16. To be condemned; but it may be added in the conventual Mass, with the consent of the Bishop, for the sick: provided that the rubrics are observed. Section 18. The privilege is granted by virtue of the faculties specially granted by His Holiness Pope Leo XIII to the Sacred Congregation. Section 19. Considering the circumstances of the place, it may be tolerated. Additional doubts. Doubt I. Notwithstanding the Decrees of May 2, 1867, and December 12 of the same year, it is asked: 1. Whether Saint Dominic should henceforth be announced as the Patron of the entire Diocese, or only of the City of La Calzada? 2. Whether this feast is obligatory for the City of La Calzada? 3. Whether it should be celebrated with a double rite, with its Octave, throughout the entire Diocese, except for the City of La Calzada? 4. Whether the Creed should be recited in the Mass outside the City of La Calzada? 5. Since it is the custom to recite the commemoration of the Patron of the Diocese among the suffrages, whether the commemoration of Saint Dominic should be included among the common commemorations of Saints? Doubt II. Whether, in the Mass of the Holy Angels, celebrated on October 2nd, a commemoration of Saint Angel, Guardian of the Spanish Kingdom, should be made, whose feast is celebrated on the preceding day with its Octave? Doubt III. Whether, when administering Holy Communion to the sick, not as Viaticum, the following

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should be observed, both inside and outside the infirmary?

[*Latin ed. p. 55*]

FROM THE SACRED CONGREGATION OF RITES 55, concerning which all the ceremonies prescribed by the Ritual for the administration of Holy Communion are to be observed, except only the words: "Receive, Brother, or Sister?" Question IV. In the Offertory of Masses on the Sundays of the Second Advent, and on the Feast Day six days after the Sunday of the Third Advent, which reading is correct: "O God, you converting," or "O God, converted"? Question V. In the proper prayers of the feasts of Saint Prudentius, Bishop, and Saint Pantaleon, Martyr, is it preferable to use the adjective "Blessed" or "The Blessed"? Question VI. Which reading should be followed after the Introit of the Mass of Saint Isidore the Farmer? Question VII. In the Gradual of the Mass of Saint Ferdinand, King, during the Paschal season, should the phrase "The just shall flourish" be added? Question VIII. Is the newly established feast of Saint Sylvester, Abbot, assigned to the 26th of November to be preferred to the Feast of the Espousals of the Blessed Virgin Mary, which is also celebrated on that day? Question IX. Can the custom, which has almost become common, of lightly dipping the hosts in wine, be retained? Regarding the additional questions. To question 1: Regarding question 1, Saint Dominic is to be considered only as the secondary patron of the city of La Calzada; to question 2, No; to question 3, No, even in the city of La Calzada; to question 4, as in the preceding; to question 5, No. To question 2, No. To question 3, Affirmative, according to the prescriptions of the Roman Ritual, except for the exceptions. To question 4, In this case, the correct reading is "O God, converted." To questions 5 and 6, The typical edition must be preserved. To question 7, Affirmative. To question 8, No, because for the entire Kingdom of Spain, the Feast of the Espousals of the Blessed Virgin Mary has been fixed by the Apostolic See on the 26th of November as its proper day. To question 9, The custom, as it has almost become common, can be retained. And thus he wrote and ordered it to be observed on February 13, 1892. % CAI. CARDINAL ALOISI-MASELLA, PRESIDENT; VINCENT NUSSI, SECRETARY, SACRED CONGREGATION OF RITES.

[*Latin ed. p. 56*]

FROM THE SACRED CONGREGATION OF RITES OF BELLUNO and FELTRE. Resolutions concerning doubts regarding the consecration of a portable altar. The Most Reverend Lord Salvator Bolognesi, Bishop of Belluno and Feltre, humbly presented the following to the Sacred Congregation of Rites: The Roman Pontifical, when treating of the consecration of a portable altar, does not contain any words concerning the blessing of the cement used to secure the small tomb; and it only directs that the Bishop, having placed sacred relics in the same tomb, should close it. Therefore,

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the Bishop, following those things which are handed down to him, has observed that in the *Manual of Sacred Ceremonies* by Martinucci, when consecrating several portable altars for each of his dioceses, he neither blessed the cement, nor did he himself close the tombs with a stone; but left this task to those present, who perhaps often used water that was not blessed in preparing the cement. Furthermore, he has not even considered impressing the episcopal seal upon the tombs. And during pastoral visits, if he has ever found a stone of the tomb to be less firmly attached by the cement, he has ordered that it be secured with new cement, by the parish priest, or another priest. After reading the more recent Decrees of the Sacred Congregation of Rites, especially those of Policastro, dated June 23, 1879; of Lucania, dated September 3, 1879; of Vivaro, dated February 28, 1880; of St. John in America, dated December 15, 1882; and of Ravenna, dated May 18, 1883, a doubt has arisen as to whether what has been stated above is correct. Therefore, the same Most Reverend Bishop proposed the following doubts to the same Sacred Congregation for opportune declaration, namely:

Question I. Whether, in the future, the cement used to secure the stone in the portable altar's tomb should be blessed according to the rite prescribed for the consecration of an altar.

Question II. Whether the Bishop himself should unite the tomb with the cement and close it with a stone.

Question III. Whether an episcopal seal should be added to the small tomb of the altar.

These further questions, concerning which one of the Masters of the Sacred Ceremonies has expressed his opinion in writing, having been proposed by me, the undersigned Cardinal Prefect of the same Sacred Congregation, were presented in ordinary meetings held at the Vatican; To the Most Reverend and Venerable Fathers, for the safeguarding of the rites.

[*Latin ed. p. 57*]

From the Sacred Congregation of Rites, after carefully considering all matters, they responded as follows: To I. Affirmative. To II. If it concerns the consecration of a single portable altar, affirmative; but if it concerns the consecration of multiple portable altars, it suffices that the Bishop anoints the edge of the sepulcher of one altar; and while he proceeds with the deposition of the Sacred Relics, the assisting priests should perform the sealing of the letter and the closure of each sepulcher. To III. According to the Decree of the Congregation in Vivar, on February 28, 1880, the Episcopal seal can be affixed, but it is not necessary. And thus they responded and declared on May 10, 1890. SEDUNEN. Doubts regarding the Blessing of Bells. The current Chancellor of the Episcopal Curia of Sedunen, at the mandate of the Most Reverend Bishop, humbly submitted the following doubts to the Sacred Congregation of Rites for a suitable solution, namely: "The Roman Ritual exhibits the simple blessing of a bell, adding these words: 'Which,

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however, should not be used in the service of the Church.'" Hence, the following questions are raised: Doubt I. Whether, whenever bells are blessed, which are used in the service of churches or chapels, the ceremonies and unctions prescribed in the Pontifical Roman are to be used? And the answer is Affirmative. Doubt II. To which bells is the simple blessing properly applied? And the Sacred Congregation, after considering the report of the undersigned Secretary, and with the careful opinion of another of the Masters of the Apostolic Ceremonies, decided that the following should be the response, namely: To I. Affirmative. To II. To all bells which do not serve for sacred use, and for these, the formula recently approved should be added. And thus they responded and declared on March 4, 1892. SIMPLE BLESSING OF A NEW BELL WHICH, HOWEVER, IS NOT USED IN THE SERVICE OF THE CHURCH. f. Our help is in the name of the Lord. R). Who made heaven and earth.

[*Latin ed. p. 58*]

58 From the Sacred Liturgy: Psalm 50. "Have mercy on me, O God, according to thy great mercy." Psalm 53. "O God, in thy name, so save me." Psalm 56. "Have mercy on me, O God, have mercy on me." Psalm 66. "O God, be merciful to us." Psalm 69. "O God, turn thy attention to my help." Psalm 85. "Incline thy ear, O Lord, and hear me." Psalm 129. "From the depths I have cried out to thee." f. Kyrie eleison. R. Christe eleison. f. Kyrie eleison. Our Father (in secret). f. And lead us not into temptation. R. But deliver us from evil. f. May the name of the Lord be blessed. R. Now and forever. f. O Lord, hear my prayer. R. And let my supplication come to thee. f. The Lord be with you. R. And also with your spirit. Let us pray. O Almighty and eternal God, who has arranged the course of all things in the world with unspeakable wisdom: grant, we beseech thee, that this vessel, destined for the series of actions, may be filled with the dew of thy blessing, so that all things may be done in order, and that every disturbance from the evil spirit may be banished. Through the Lord... Now the Officiant places incense in the thurible and blesses it, and first sprinkles it around, while the choir sings: "Let my prayer be directed as incense in thy sight." Then, the Officiant, making the sign of the cross over the Campanile, departs with the Ministers. LINCIEN. Doubts concerning the collection for the Emperor, etc. Reverend Lord Francis Mary Doppelbauer, Bishop of Linden, humbly submits the following doubts to the Sacred Congregation of Rites for proper resolution, namely: Doubt I. Since there is a varied interpretation concerning those things which are...

[*Latin ed. p. 59*]

From the decree of the Sacred Congregation of Rites, dated February 10, 1860, approved by the Most August Emperor Francis Joseph I, in order to ensure uniformity in the interpretation of the aforementioned decree, the

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following questions are posed:

1. Must priests from foreign lands (e.g., French, Spanish, etc.) celebrating Mass within the jurisdiction of Austria add the words: "And for Our Emperor" in the Canon?

2. Must these same priests recite the prayer for the same Most August Emperor, when ordered by the Ordinary, exactly as it is written, or may they omit the word "Our"?

3. In the same decree, where it is prescribed that a collection be taken for the same Most August Emperor at Masses, should the words: "on those days for which it is permitted by the rubrics" be understood as some wish that this collection may not be omitted at parish Masses celebrated on feast days of the second class; or rather, should they be understood in such a way that in these Masses the same collection must be omitted, or, as is generally the case with prescribed collections at Masses celebrated on feast days of the second class, it be left to one's discretion?

4. Regarding solemn Masses, it is doubted whether the same collection should be taken, if permitted by the rubrics:

a) On Sundays and other days, if the Mass (even though ministers can easily be obtained) is sung without ministers, in order to distinguish it from a solemn Mass on days of greater festivity?

b) Whether this applies only to solemn or sung Masses *of a feast*, or also to those Sundays and weekdays, and days within *Octavas* that are privileged and which admit prescribed prayers?

c) Whether this applies to votive Masses, which, if permitted by the rubrics, are sung simply or solemnly, e.g., at the beginning and end of the school year, or at Masses for newly ordained priests, and which also admit prescribed prayers?

d) Whether this also applies to conventual Masses, which are sung daily in cathedral and collegiate churches (or when they are sung without ministers)?

e) Whether this applies to a solemn or sung Mass of the Office occurring at the blessing of marriages on Sundays (whether it is *of* the feast, or *on* a feast of double class), on days within the Octave of Epiphany, on the fourth, fifth, sixth days, and on the Saturday within the Octave of the Most Holy Body of Christ?

f) Finally, must the same collection be taken at a solemn or sung Mass, if on that day, in the same church, a Mass is sung in addition to the parish Mass, when in this aforementioned collection the words must be added, according to the cited decree?

Doubt II: Is the decree of Ravenna, dated May 18, 1883, concerning paragraphs VII and VIII, to be understood in such a way that the commemoration of the anniversary of the election and coronation of the Supreme

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Pontiff, and the election and consecration of the Bishop, are prohibited even on those days of double class that are excluded, which nevertheless admit prescribed prayers, such as the Sundays of Advent and Lent, the fourth day of Ash Wednesday, and the days within the privileged Octaves under a semi-double rite?

Doubt III: What prayer should be said in the Office for the Dead on the day of the deposition, and on the third, seventh, and thirtieth anniversaries?

[*Latin ed. p. 60*]

60 FROM THE RITUAL OF THE SACERDOTE: Is the prayer "Deus qui inter Apostolicos Sacerdotes?" always to be said? Question. In a Mass for the repose of the soul of a deceased person who is located far away, and when the first news of the death is upon receiving the news by telegraph, the Mass is celebrated before the deceased's burial), or by saying "whose death we commemorate." Others believe that in such a case, the prayer should always be said on the day of death, perhaps omitting the word "hodie" if the burial has already taken place. Which of these opinions should be followed in practice? Question. In funeral Masses for the burial of the deceased, when only one Nocturn is recited, should that which corresponds to the current day be omitted? Question. Whenever the single Nocturn for the Dead is said in the evening hours, which should correspond to the day of the week according to the rubric of the Roman Breviary, on which day should it be based? Question. Can the violet vestments be retained for the hymn "Te Deum" (which, for example, is solemnly sung immediately after Mass, which should be celebrated according to the rubrics in violet, as on the feast of the Holy Innocents and on Sundays of Advent, etc.), or must they be changed to another color in that case? Question. When, immediately after a solemn Mass, the Blessed Sacrament is exposed for the singing of the hymn "Te Deum," or for other prayers (or even simply for adoration lasting for several hours), is it permissible for the celebrant to also give the blessing with the same Blessed Sacrament at the end, retaining the cope, or should he rather wear the pluvial? Question. For votive Masses for Saint Joseph, the Spouse of the B.V.M., when his votive Office is not recited on the fourth day of the week, should the formulary from the Mass of March 19th be used, or the formulary from the Mass that corresponds to the votive Office of the same Saint on Thursdays throughout the year? Question. In the votive Mass of the Sacred Heart of Jesus ("Miserebitur"), outside of the Paschal season, should the "Alleluia" be omitted, both at the Introit and at the Offertory and Communion? Question. Is the same votive Mass of the Sacred Heart permissible for those who are using privileges on those days in which they recite the votive Office of the Blessed Sacrament on Friday, or the Passion of the Lord on Saturday? Also, is it permissible for them to say the votive

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Mass of the Passion of the Lord when they recite the votive Office of the Blessed Sacrament, and vice versa; or the votive Mass of the Holy Cross when they recite either of these votive Offices? And to the extent that the answer is affirmative, what would be the second prayer in these cases: of the votive Office, or of the time (when no other commemorations occur)?

[*Latin ed. p. 61*]

EX 61 S. C. RITUUM Dub. XII. What prayer should be recited in the third place in the votive Mass of the Most Holy Trinity, celebrated within the Octave of the Blessed Virgin? Should it be concerning the Holy Spirit?

Dub. XIII. Should the stole worn by the preacher (which is always in use in these regions) for festive sermons on Saint Joseph and the Annunciation of the Blessed Virgin, when these feasts occur during the major week, be of the color white, or of the color violet? And is it permissible to use a stole of the color black for the sermon for the dead on November 2nd (or the following Sunday)?

Dub. XIV. When distributing the Holy Communion to nuns who are located behind the altar in the choir, should the priest, after the Confiteor has been recited by the minister or by the nuns themselves, place the ciborium near the window of the choir, and there, turning towards the nuns, say "Miserere," etc., and "Eeee Agnus Dei," etc., or rather, should he say all of these things facing the altar towards the people, as is customary, and then descend through the middle of the altar (even though the window is on the Epistle side) to give the sacred Body of Christ to the nuns? And does the same apply if the choir is not located behind the altar, but in some part of the side of the sanctuary?

Dub. XV. There are two practices regarding the washing of the fingers in the first and second Masses on the holy day of the Nativity of the Lord. Some, indeed, in these two Masses, wash their fingers in a clean vessel, into which the minister customarily pours wine and water, while saying "Corpus tuum, Domine," etc., and they take this washing in the third Mass along with the final washing. Others, however, wash their fingers in a vessel with water that has already been prepared, as is done after the distribution of the Holy Communion; this water is either taken with the final washing in the third Mass, or it is left to be poured into the piscina of the sacristry. The question is: which of these practices is to be followed, as being more in conformity with the rubrics?

Dub. XVI. What verse should be recited in the votive Office of the Most Holy Angels on the second day of the week of Easter, at the First Nocturn: should it be "Adorate Deum" from the Ninth Hour?

Dub. XVII. If the feast of the Seven Sorrows of the Blessed Virgin occurs during the week of Passion, and lacks the First Vespers, should the hymn of the Vespers be joined with the hymn of the Matins, as indicated by the

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rubric in the Breviary, even if it has the complete Second Vespers; or, in this case, should the hymns be transposed, as taught by A Carpo, so that the hymn of the Vespers is said at Matins, the hymn of the Matins at Lauds, and the hymn from Lauds at the Second Vespers?

Dub. XVIII. For any Confessor Saint, Pope, and Doctor of the Church, for whom the prayers are taken from the Common of Doctors in the Middle, should the words "Confessor tuus et Doctor" be said in the Postcommunion, or should the words "Pontifex tuus et Doctor" be said, as is found in the typical edition of the Missal on April 21st, for the feast of Saint Anselm, Bishop and Doctor?

Dub. XIX. It is customary in this Diocese, as well as in some others, to...

[*Latin ed. p. 62*]

From the Sacred Rites, section 62, it is asked whether, during the Paschal season, in the exercises of devotion which are performed outside of the canonical Office, especially before the Most Holy Sacrament, the "Alleluia" should be added to the verses; for example, after the "Ora pro nobis" following the Lauretan Litany, and after the "Benedicamus Patrem et Filium" following the "Te Deum," and indeed, whether the "duplex Alleluia" should be added to the "Benedicamus Domino" on the days of Paschaltide or within the Octave of Easter, which is customary in these regions after the prayers, which are preceded by the solemn singing of the Ambrosian hymn. Can this practice be tolerated?

Question XX. A bishop who celebrates in a foreign diocese is bound to mention the bishop of that foreign diocese in the Memento of the Canon, or should he mention himself?

Furthermore, the Sacred Congregation of Rites, after receiving a report from the undersigned Secretary, and after a careful opinion from another of the Masters of the Sacred Ceremonies, considered the aforementioned questions and responded as follows:

Regarding I: It is possible, but not required, concerning the first part; concerning the second part, Affirmative concerning the first, Negative concerning the second; concerning the third part, Negative concerning the first, Affirmative concerning the second; concerning the fourth part, Affirmative in all respects.

Regarding II: Negative.

Regarding III: The rubrics of the Roman Ritual are to be observed, namely Title VI, chapter 3, paragraph 5, for the day of the Commemoration, and Title VI, chapter 5, paragraph 2, for the third, seventh, thirtieth, and anniversary days.

Regarding IV: The prayer is to be recited as it is found in the Missal.

Regarding V: The First Nocturn is to be said.

Regarding VI: The Nocturn should correspond to the feria on which the

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Mass is celebrated.

Regarding VII: Affirmative concerning the first part; Negative concerning the second part.

Regarding VIII and IX: Negative concerning the first part; Affirmative concerning the second part.

Regarding X: Negative.

Regarding XI: Affirmative, and the second prayer is to be taken from the proper time.

Regarding XII: The stole of the preacher should be of the color corresponding to the Office of the day, even on the second of November.

Regarding XIII: The stole of the preacher should be of the color corresponding to the Office of the day, even on the second of November.

Regarding XIV: Affirmative concerning the first part; Negative concerning the second part; concerning the third part, provision is made in the first.

Regarding XV: The second method of purification is more expeditious, and is in accordance with universal practice.

Regarding XVI: Instead of the first Antiphon, the second "Immittet Angelus" should be used.

Regarding XVII: Negative concerning the first part, Affirmative concerning the second part.

Regarding XVIII: The prayer is to be said as it is found in the Missal.

[*Latin ed. p. 63*]

FROM THE SACRED CONGREGATION OF RITES, 63, paragraphs 19 and 20. Negative. Paragraph 20, negative regarding the first part, affirmative regarding the second. * HIS EMINENCE, CARDINAL ALOISI-MASELLA, PRESIDENT; VINCENT NUSSI, SECRETARY. FROM THE THIRD CONGREGATION OF THE SACRED INQUISITION, DECREE concerning the cremation of bodies. Thursday, December 15, 1886. The Most Reverend and Most Eminent Cardinals, Inquisitors General, decreed: Whenever the matter is discussed concerning those whose bodies are subjected to cremation, not by their own will, but by the will of others, the rites and prayers of the Church may be employed, both at home and in the Church, but not until the place of cremation, in order to remove scandal. Furthermore, the scandal can also be removed if it is known that the cremation was chosen, not by the will of the deceased. But when the matter is discussed concerning those who, by their own will, chose cremation, and who, with certain and manifest determination, persevered in this will until death, in accordance with the decree of May 19, 1886, (1), they must be treated according to the norms of the Roman Ritual, Title: Those to whom ecclesiastical burial is not permitted. In particular cases, in which doubt or difficulty arises, the Ordinary must be consulted, who,

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after carefully considering all circumstances, will decide what he judges to be more expedient in the Lord. FROM THE SACRED CONGREGATION OF THE INDEX, Friday, July 14, 1892. The Sacred Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by the Most Holy Lord Pope Leo XIII and the Holy Apostolic See, concerning the Index of books of false doctrine, and also (1) This decree was reported in Volume XIX, 46.

[*Latin ed. p. 64*]

64 From the SACRED CONGREGATION for the suppression, expurgation, and permission of works throughout the Christian Republic, held in the Apostolic Palace at the Vatican on July 14, 1892, it is decreed and commanded that the following works be consigned to the Index of Prohibited Books, or otherwise condemned and suppressed:

Anelli, Abbot Luigi – *Riformatori nel secolo XVI* [Reformers in the 16th Century], volumes 2. Milan, 1891.

Mantegazza, Paolo – *Igiene dell'Amore* [Hygiene of Love], Third edition of the 1889 edition. Milan, 1891. – *Fisiologia dell'odio* [Physiology of Hate]. Milan, 1889. – *Epicuro* [Epicurus]. – *Saggio di una Fisiologia del Bello* [Essay on a Physiology of the Beautiful]. Milan, 1891. – *Epicuro II*. – *Dizionario delle cose belle* [Dictionary of Beautiful Things]. Milan, 1892. – *L'arte di prender moglie* [The Art of Marrying]. Milan, 1892.

Graf, Arturo – *Il Diavolo* [The Devil]. Milan, Fratelli Trêves Editori.

Uzard, Professor Leopoldo – *Storia del Diavolo illustrata splendidamente da 50 disegni* [History of the Devil, splendidly illustrated with 50 drawings]. E. Perino Editore, Rome, 1892.

Libro di Divozioni per le diverse ore della giornata e le principali feste dell'anno, aggiuntovi il matutino, i vespri, i notturni ed i salmi penitenziali [Book of Devotions for the different hours of the day and the main feasts of the year, with the addition of the Matins, Vespers, Nocturns, and penitential Psalms]. – *Piccola Biblioteca di libri devoti*, published by the journal *Cuore e Critica*. Savona. *Il mese di Maggio (Strenna per nozze)* [The Month of May (Gift for Weddings)] – (A. Ghisleri, compiler). Bergamo. Fr. Cattaneo, successor to Gaffuri and Gatti.

Ansault, M. l'Abbé – *Le culte de la croix avant Jésus-Christ. I. La Croix avant Jésus-Christ* (excerpt from *Correspondant*). Paris, 1889. – *Le culte de la Croix avant Jésus-Christ. Réponse à M. De Harles professeur à V Université de Louvain* (excerpt from *Science catholique*). Emile Colin, Imprimerie de Lagny, 1890. – *Mémoire sur le culte de la Croix avant Jésus-Christ* [Memoir on the Cult of the Cross before Jesus Christ]. Paris, 1891. – (The author commendably subjected himself and disapproved of the works).

Renan, Ernest – *Souvenirs d'enfance et de jeunesse* [Memories of

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Childhood and Youth]. Paris, 1883. – *Feuilles détachées faisant suite aux Souvenirs d'enfance et de jeunesse* [Loose sheets following the Memories of Childhood and Youth]. Paris, 1892.

De Régla, Paul – *Jésus de Nazareth au point de vue Historique, Scientifique et Social* [Jesus of Nazareth from a Historical, Scientific, and Social Point of View]. Paris, 1891.

CAMILLUS Card. MAZZELLA, Prefect of the Place and Seals.

FR. HYACINTHUS FRATI, O.P., Secretary.

[*Latin ed. p. 65*]

65. BY PAPAL BULL, the Most Holy Pope Leo XIII, Concerning the Establishment of a Theological Discipline in the Vatican Seminary. To the students of the Vatican Seminary, who, under Our watchful eye, grow near Tulle and almost in the shadow of the Blessed Peter, We have deemed it fitting to devote certain special attentions at this time; as We see that illustrious predecessors have done in many instances, notably Urban VIII, whose foresight founded the Seminary itself in the year 1636, and both Benedict XIII and Benedict XIV, of whom the former transferred it to a better location, and the latter adorned it with privileges. In this matter, and in itself, the establishment of a college of Canons of the same Basilica was, for the sake of the youth suitable and entirely worthy of the dignity of the Prince of the Apostles, a matter that We desired to promote. — Therefore, in addition to certain additions made to the buildings of the Seminary itself, We have, with the utmost diligence, considered what was of greater importance, namely, to foster the best possible progress in the studies of virtue and doctrine therein. With regard to doctrine itself, We have ordered the course of letters and humanities to be more thorough; likewise, the subsequent course of philosophy, also equipped with suitable instruments of natural philosophy and other aids, by which the minds of the young men are accustomed to be sharpened and refined: and all these things We have deemed to be required in such a manner and by such methods, so that this institution might conveniently and usefully be open even to outsiders, especially in this region near the outskirts of Rome. Our plans and expectations have been met with abundant fruit, thanks to the diligence of the administrators and professors. Thus, encouraged by the benevolent will, We have considered the need to provide a healthy place for the relaxation of the students; which We have now accomplished in the Sabine hills, through a retreat drawn from the very soil. — It seemed that what is especially decreed by the Council of Trent in this matter, namely, that clerics should be instructed in ecclesiastical disciplines, this Seminary should not have to seek from elsewhere, but should be able to provide it itself within its own walls; from which, moreover, a greater use of their time would be afforded to them, and the sacred rule of custody would be better preserved. Considering these things, and desiring to be able to serve the institution of

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this youth even more, We have resolved that...

[*Latin ed. p. 66*]

66 By these letters, We establish and regulate, with the proper manner and stability, the discipline of theology, which there had previously been begun and in a somewhat abbreviated form. Therefore, as We have deemed fitting, by these letters We decree and declare that the sacred discipline of theology shall be added to the studies of literature and philosophy which are cultivated in the Vatican Seminary, in order that it may receive that very proportion which We have frequently recommended in similar matters, namely, according to the teachings of the Angelic Doctor. Wherefore, magistries are established to suitably treat those doctrines and related matters, with prudent judgment: and for the perpetual preservation of this, a certain sum of money is assigned to the same Seminary. Which We do with all the more pleasure, inasmuch as We hold the hope that, with God's help, it will surely come to pass that, as a testimony of Our benevolence to Our beloved sons, they will render a like and even greater return for the benefits conferred upon them previously, and a more abundant grace through diligence and fruitfulness, to the great joy of the venerable Mother Church and the adornment of the Vatican clergy. Let those things which have been decreed by Us in these letters remain ratified and firm forever, notwithstanding any contrary things whatsoever. Given at Rome, at St. Peter's, on the twenty-fifth day of July, in the year 1882, in the fifteenth year of Our pontificate. LEO XIII, POPE.

• «s=s-f-0-*<s=a— LETTER from Our Holy Father Leo XIII to the Bishop of Grenoble: in which He expresses joy concerning the meetings of the Catholic youth held under the presidency of the aforementioned Bishop. We do not wish to delay in expressing to you, Venerable Brother, how pleasing to Us was the letter by which you informed Us of the Catholic Congress of French Youth, held at Grenoble, under your presidency, with the participation of men of merit for their piety, their knowledge, and their perfect obedience to the acts of the Holy See, in which We have recently indicated to Catholics the course of action to be followed for the effective defense of the supreme rights of the Church.

[*Latin ed. p. 67*]

LETTERS 67. These tidings have tempered the grievous "bitterness" which We feel in witnessing so many ways in which this Christian religion, upon which the salvation of souls, and consequently the well-being of humanity, and the true progress of civilization depend, is being assailed. They are a proof to Us that Our words find, even today, as they will always find, minds eager to listen to them attentively and to take them as the rule of their lives. These men, by so doing, have given at the opportune moment a public and salutary example. Indeed, We regret to observe

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that there are others who, while professing their Catholicism, believe themselves to be within their rights to show themselves refractory to the guidance given by the Head of the Church, under the pretext that it is a matter of political direction; nevertheless, in the face of these erroneous pretensions, We maintain in their entirety each of the acts previously issued by Us, and We say again: "No, certainly, We do not seek to engage in politics; but when politics is closely linked to religious interests, as is currently the case in France, if someone has the mission to determine the conduct that can effectively safeguard religious interests, in which consists the supreme end of things, it is the Roman Pontiff." To this principle of safeguarding the good of souls are attached all the teachings which We have deemed it necessary to give recently, on several occasions, in virtue of Our apostolic ministry; and, far from introducing a new principle, they have done nothing but continue, by applying them to the present circumstances, the traditional teachings of all Our predecessors, who, at various critical times, have done everything, in their devotion to souls, to enlighten perplexed minds or to preserve from a fatal deviation those whom their very zeal exposed to going astray, to expend themselves in vain efforts, and to become an obstacle to the good. But, returning to the good and courageous examples given by the Congress of Grenoble, We note with the greatest satisfaction the important part taken therein by the Catholic youth, with the support of men remarkable for their experience. God will certainly bless the efforts of these young people.

[*Latin ed. p. 68*]

68 Letters, no less intelligent than devoted, which have taken as their sole guiding principle the preservation of the Christian faith. There was a time when the Christian East called upon the West for the reinforcement of its arms to stem the devastating invasions of the infidels, and no one is ignorant of the heroism with which France participated in this movement. Other are the times, other the evils to be averted. It is no longer a question for French Catholics of repelling far away the torrent of the infidels. It is a matter of safeguarding and developing the faith in their own homeland, which is threatened with being completely dechristianized. They cannot fight with material weapons similar to those of the crusaders; but they have freedom, and they have the duty of resorting to spiritual weapons. Such were the weapons wielded with such vigor in truth, with such brilliance in eloquence, by the apologists; against the errors and calumnies of the pagans first, against the rationalism of the sophists later; such were also the weapons employed by the martyrs, when, in their heroic courage, they so closely united the love of God with the true love of their country, where they allowed themselves to be killed rather than betray one or the other of these two loves; such have been at all times the weapons of true faithful, resolved to draw the conclusions from the principles of their faith through

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the sincere and complete practice of the duties of a Christian. Obviously, the genius of the apologists cannot be the lot of all. Not all are called by God to push virtue to heroism; but there is not a single Christian who can fail to recognize that it is his duty, proportionate to his common abilities, to conform his actions to his faith, and thereby to become a worthy instrument of divine mercy in the healing of minds blinded by ignorance or passions. These dispositions were precisely those of the Catholic Congress of Grenoble, as well as of analogous congresses that preceded or followed it; and therefore, they were agreed in arriving at the same holy resolutions. May these assemblies multiply; may France see everywhere on its soil the sprouting of Christian associations animated by identical sentiments! At this price, one can hope that the Christian spirit will remain alive, industrious, and communicative; and it will carry the light of faith to the depths of all.

[*Latin ed. p. 69*]

LETTERS 69: concerning souls that have lost it, or that have it only wavering and inert. Everywhere and always, ignorance has been the great enemy of the Church of Jesus Christ; it is so even today, in France, where the sublime mysteries of the Christian religion are either completely ignored, or are not known in their true light, nor are the incomparable benefits bestowed upon humanity by the Redeemer of the world, nor the salutary role of that divine society which is called the Church, infallible mistress of truth, sanctifier of souls, and therefore the primary source of perfection for individuals and for peoples. This ignorance, exploited by calumny, invades the popular masses, who fall into the sleep of indifference and leave the field open to all those enemies of the Church who are determined to banish it from any participation in the social life of humanity. Paganism had no other methods against the first Christians; fortunately, these, far from being demoralized, worked all the more energetically to spread the benefits of Christian truth around them. It is known what the fruits of their confidence were. An important observation will conclude what we wished to say: it is true that the progress of religious life in peoples is eminently a social work, given the close connection between the truths that are the soul of religious life and those that govern civil life; from this follows a practical rule, which must not be lost sight of, and which gives Catholics a characteristic breadth of mind. We mean that, while remaining firm in the affirmation of dogmas and free from any compromise with error, it is a matter of Christian prudence not to reject, let us say better, to know how to seek the cooperation of all honest men in the pursuit of good, whether individual or, especially, social. The vast majority of French people are Catholic, but, among those who do not have this blessing, many still retain a certain common sense, a certain rectitude that can be called the feeling of a naturally Christian soul; and this elevated sentiment gives them, along

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with the attraction of good, the ability to realize it, and more than once, these inner dispositions, this generous cooperation, serve as preparation for them to appreciate and profess the Christian truth. Therefore, We...

[*Latin ed. p. 70*]

70. We have not neglected, in Our recent acts, to request the cooperation of these men in order to triumph over the sectarian persecution, now unmasked and unrestrained, which has conspired to bring about the religious and moral ruin of France. When all, rising above factions, will concert their efforts for this purpose, honest men, with their just sense and upright hearts, the faithful, with the resources of their faith, experienced men, with their wisdom, young men, with their initiative, and families of high standing, with their generosity and their holy examples; then, the people will finally understand which are its true friends and upon what firm foundations lasting happiness, for which it yearns, must rest; then, it will turn towards the good, and as soon as it puts its powerful will into the balance of things, the transformed society will honor itself by spontaneously bowing before God, in order to contribute to such a beautiful and patriotic result. You have just given Us a new proof of this zeal in the congress, which you presided over in Grenoble. Therefore, We hope that the resolutions which were adopted will be implemented with discernment and perseverance, and that they will be perfected by their very application. It is with this confidence that We impart, with a generous heart, Our apostolic blessing to you, to all the members of the congress, and especially to the elite of French youth who were present. Given at Rome, on the 22nd of June, in the fifteenth year of Our pontificate. LÉON XIII, POPE.

(Latin Version)

Quam gratae Nobis fuerint litterae tuae, Venerabilis Frater, quibus Nos de Comitiis certiores fecisti per iuniores Gallos, te praesidente, istic habitis, operam conferentibus Viris probitate, doctrina, atque in S. Sedis Acta, quibus Nos Catholicis tutam in supremis eiusdem S. Sedis iuribus naviter defendendis viam ferendam ostendimus, perfecta observantia conspicuis, tibi significare haud amplius morandum existimavimus.

[*Latin ed. p. 71*]

LETTERS 71. The knowledge of this matter wonderfully tempered the profound sorrow that We felt, seeing how the Christian Religion, in which the salvation of souls, and therefore the principal good of the human race, and the progress of civil society, so greatly depend, has been so grievously attacked in so many ways. This same knowledge provides Us with a new argument, and demonstrates that there are, and will always be, those who will receive Our words faithfully, and who will demand that their lives be ordered according to them. And thus, these men have provided a public and supremely salutary example, when it was most needed, in Galliae.

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For there are others, and We certainly do not wish to conceal this from the world, who, although they claim to be Catholics, believe that they are permitted to openly reject the norm of conduct that has been handed down by the Supreme Pontiff for these times of the Republic; alleging that this pertains more to politics than to Religion. But We, in order to refute this false opinion, wish to state and confirm that all the acts that We have published up to now are entirely complete and well-ordered: and furthermore, We add this: We certainly do not intend to interfere in matters pertaining to the administration of the Republic; but when the administration of the Republic is closely linked to matters of Religion, as is indeed the case today in Galliae, then anyone who has the right to prescribe the correct course of action, which defends the rights and reasons of Religion, in which the supreme end of things consists, must be able to do so; and besides the Roman Pontiff, there is no one. All the precepts that We have recently and repeatedly sought to impart, for the sake of Our Apostolic office, are closely connected to this purpose of caring for the salvation of souls: and indeed, no new principle of action or of thought is introduced by them; rather, they are nothing other than a continuation of certain precepts that have been handed down by the Roman Pontiffs up to now; and an appropriate application to the present circumstances and times. Our predecessors did everything in their power, in the most difficult of times for the Republic and the Church, for the sake of their care and concern for the souls of the faithful, to enlighten doubtful minds, and to save those who, through their own zeal (not according to knowledge), would easily and sadly stray from the right path of truth and justice, and who would waste their efforts, and become an obstacle to the common good, from certain ruin. But let us turn to the best and most excellent examples of virtue...

[*Latin ed. p. 72*]

72 We have received with the greatest joy the letters recently presented to the Convent of Gratianopoli, and we have learned how much the Catholic youth there, with the spontaneous cooperation of men distinguished by their prudence, have labored. God will surely bless the prudent and generous efforts of these young people; who have dedicated the sole badge of their service to the defense of the Christian Faith. There was a time when the Christian East sought from the West the protection of arms, in order to restrain the incursions of the infidels; and how diligently France contributed to this, is certainly known to no one. - But now are different times, and different evils must be averted. - The Catholic people of France are no longer threatened by the hordes of infidels. - It is necessary to defend and promote the Faith within their own homeland, where the danger of losing the Christian Religion looms. - They cannot, indeed, fight with the iron weapons which Christian soldiers bore in Palestine, bearing the Cross; but they can, and they must, use spiritual weapons. - Such weapons were

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those used by the Christian Apologists, with so much strength of truth and eloquence, first against the errors and calumnies of the pagans, and then against the deceptive conclusions sought by the Sophists. Such weapons were also used by the Saints, the Martyrs, who, with each of them uniting in their own heart the most profound divine charity with a true love for their homeland, offered themselves to be killed on their own native soil, rather than abandon either of these affections. Such weapons, finally, have always been those of faithful Christians; who were determined and resolved to derive from the fundamental principles of the Faith, and from the duties of a Christian man faithfully and sincerely practiced, opportune means. Certainly, not all can possess the genius of the Apologists; not all are divinely called to heroic virtue; but no Christian can fail to be bound by the duty of rightly conforming their actions to the Faith they profess; and thus to make themselves a suitable instrument of divine mercy, so that they may help to care for souls, whether blinded by ignorance or by unrestrained desires. These are the things that the Catholic Convent of Gratianopoli, and other similar assemblies, which preceded it here, have firmly affirmed.

[*Latin ed. p. 73*]

LETTERS 73, or what followed, were as follows: the plans and proposals were such that all, with a wonderful agreement of spirit, came together to deliberate piously and holily. Would that such assemblies might multiply; would that France might see such Christian associations, imbued with the same sentiments, arise and flourish everywhere in her native soil! Indeed, in this way it is possible that the spirit of this Christian religion may persevere, living, industrious, and beneficial: bringing the light of faith to those who have lost it, or who still keep it hidden, weak and inert, in their hearts. Everywhere and always, ignorance has been the enemy of the Church of Christ; and today it is so even in France, where either the sublime mysteries of the Christian religion, or the most excellent benefits conferred by Christ the Lord, Redeemer of the world, upon the human race, or finally, the most important duty of teaching all nations, divinely accepted, which is to be fulfilled by that divine society which is called the Church (which is also the infallible Teacher of truth, sanctifying souls through the sacraments, and therefore the primary source of moral perfection, both for individuals and for all peoples), are either entirely unknown to many, or not understood with sufficient clarity, as is fitting. This ignorance, which the malicious enemies of the Church abuse by slandering religion, greatly afflicts the people; who are therefore lulled into a sleep of irreligious indifference, and leave their camps freely exposed to the attacks of those enemies of the Church; who, with a mad purpose of mind, insist fiercely on completely removing it from all, even the smallest, participation in social human life. In a similar manner, the pagans in the early centuries of the Church used to treat Christians; but these, with the help of God, have never lost heart:

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on the contrary, they have striven day by day to spread the benefits of the Christian truth ever more widely. We know well what fruits have resulted from this excellent faith. Finally, this last observation, of great importance, will bring to an end all that we have wished to say. For in peoples, the progress of religious life truly and primarily concerns human society, because of the intimate connection between the truths which are the soul of religious life, and the principles which govern civil life.

[*Latin ed. p. 74*]

74. From this, a most practical rule is deduced, which is easily remembered, and which attributes a certain moral and quite unique quality to Catholics in this place. Indeed, while preserving and maintaining all the dogmas of the Christian Religion, and excluding all opposition with Christian prudence, it is not necessary to repel, but rather to attract, and to secure the favor and support of all upright men, both in their private affairs and, especially, in the pursuit of the common good. Most of France is Catholic; but even among those who are not, there is nevertheless a certain sense of right judgment, and a certain integrity of spirit, which can be called, as Tertullian said, a naturally Christian sense. This very high sense of the mind gives a certain inclination towards moral good, and the power to accomplish it; and often this inner disposition of the mind, this generous offering of help in works or deeds, paves the way for the recognition and acceptance of Christian truths. For this reason, in our recent writings, we have not failed to urge these very people to offer their mutual assistance, so that we may finally achieve triumph over the wicked sects, which, having abandoned all pretense, and with loosened reins, have sworn to bring about the ruin of Religion and moral integrity in France. But when all, setting aside partisan interests, strive to achieve this goal, with upright men using their prudent counsel and good will; Catholics with the protection of their Faith; the elderly with their experience and knowledge of affairs; the young with the vigor of their activity; wealthy and noble families with their generosity, and with examples of pious and holy lives, then the people will finally recognize who are the true and sincere friends of the Fatherland, and upon what foundations, and indeed the firmest, the happiness they so eagerly desire must rest: then they will also be drawn to the good, and scarcely will they have imposed their will on the moral order of things, when human society will be completely transformed, leading them to honor and praise, and spontaneously inclining themselves to God in order to achieve this glorious and patriotic goal. You, Cardinal Eme, recently demonstrated a new example and testimony of this zeal in the Convent of Gratianopolitan, which you preside over.

[*Latin ed. p. 75*]

We therefore hope that the decrees and resolutions which were estab-

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lished and confirmed there will, with equal wisdom and constancy, be put into practice as soon as possible, and that they themselves will be perfected through that very practice. Encouraged by this confidence, We impart Our Apostolic Blessing with singular benevolence to You and to all the men chosen from the Convent of Gratianopolis, and especially to the most excellent French youth who are gathered there.

Given at Rome, on the 22nd day of June, in the year of Our Lord 1892, in the 15th year of Our Pontificate.

LEO XIII, POPE.

FROM THE HOLY CONGREGATION FOR THE COUNCIL OF MONTICASSINI, RESIDENCE.

April 9, 1892. Session 25, paragraph 12, concerning reforms.

SUMMARY OF THE CASE.

The priest, John Gamba, archpriest of the church of Saint Mary of Minerva in the community of Castrinovi Parani, for some time has not been accustomed to spending the nights either in the parochial residence, nor within the limits of the parish. For it was considered that it was more beneficial to his health, and that the unhealthy conditions of the curial buildings were detrimental to him, so he usually goes to his paternal home in the evening, in order to spend the night there. This house, in which he often also spends the daytime hours, does not seem to be very far from the boundaries of the parish. The Abbot of Monticassini wrote that it is easy for the parish priest to visit the parochial church every day, morning and evening, in order to satisfy the spiritual needs of the people entrusted to him. However, this manner of acting on the part of the parish priest has not infrequently given rise to complaints from the people. Therefore, it was...

[*Latin ed. p. 76*]

76 NO BISHOP should fail to warn the priest, when he first comes to know it, about the law regarding residence, and afterwards, to inform the Holy See of all matters concerning his office. When the archpriest learned this, he immediately presented himself to the Sacred Congregation, and, citing the following reasons, offered his excuses: because the parochial house is small and lacks the amenities necessary to promote health; because the priest's home, where he resides, although located outside the boundaries of the parish, is only within a Roman mile from the parochial church; because the priest goes to his own church in the morning and evening on every day to fulfill all the duties of a parish priest; and he also spends the night there whenever necessity requires it. And therefore,

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considering the reasons stated, my advanced age, and the precarious state of my health, I request that I be allowed to sleep in my paternal home, when there are no urgent matters requiring my presence. After transmitting the customary information and the priest's request to the Sacred Congregation, and after explaining what has been stated above regarding the distance between the archpriest's paternal home and the parish, he continued, stating the truth that the population is small, and the parochial house is not very suitable, but that the parish priest enjoys good health. He had heard complaints several times from the parishioners, and had given the same parish priest warnings; but he had excused him because of the inconvenient residence, allowing him to leave the parochial house at night, unless a pressing necessity prevented it.

Synopsis of the Discussion.

WHAT APPEARS TO FAVOR THE PRIEST'S REQUEST.

After these statements, the case of Archpriest Gamba could be mentioned, as recorded by Benedict XIV in *De Synodo Dioeces*, book 7, chapter 1, number 4, where the Fathers of Trent debated vigorously whether residence was required by divine law, and this question was not definitively settled in the Council. Those who maintained the opposite opinion advanced the reasoning of St. Thomas, 2-2, question 185, article 5, which seems to be applicable to the present case. For he teaches...

[*Latin ed. p. 77*]

In no instance should the end of the obligation be disregarded, especially in the case of a pastor. "However, since the end for which pastors are required to reside among their flock is the spiritual good of the souls under their care, it follows, as the Angelic Doctor states, that if they can achieve this same end while absent, then they may lawfully withdraw from their flock. And indeed, he who does not fulfill the precept of residence, by being among his flock in such a way that he is absent in spirit from them, and does not care for them at all, does not fulfill the end for which residence is commanded to him; on the contrary, he is considered to fulfill the precept of residence, even though he withdraws his body from his flock, if he is present in spirit with them, and achieves the end of nourishing and governing them, to which the local presence of the pastor is directed." – Benedict XIV, loc. cit. Therefore, if the priest Gamba, even though absent at night, can provide the spiritual assistance for which the parish priest's residence is required to the people entrusted to him, then all those obstacles that might hinder his prayers are completely removed. If, however, the Ordinary considers such a course of action to be acceptable, and if, after the precautions prescribed by him, no complaints arise from the people, then no harm would seem to result to the faithful. Nor should the laws, which

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prescribe the residence of the parish priest, be interpreted with excessive rigor. Indeed, as Barbosa states in *De off. et pot. parochi*, p. 1, ch. 8, n. 37; as Posse states in *De off. curati*, ch. 1, n. 7; as Bonacina states in *De on. resident*, n. 2 and 4; and as many others state in Ferraris, *Voc. parochus*, art. 11, n. 17, "the parish priest, having left his parochial house, may reside in the house of his parents or relatives within the *leges* of the parish, if from there he can fulfill the duties of his residence... and others maintain that even if such a house is outside the *fines* of the parish, provided it is not more than a Roman mile distant." Furthermore, as Ventriglia states in his *Praxi*, Annot. 20, § 1, n. 1 and following, it does not prevent this, even though the Holy See has declared that the residence of the pastor should be near the parish; for this should be understood as "not far away," since the word "near" refers to a small distance.

[*Latin ed. p. 78*]

78 "NULLIUS MONTIS" is explained by Rice, 4 part, decision 41, by total. Diana, 3 part, treatise 4, resolution, "in fine," even if the parish priest does not reside within the boundaries of the parish, provided that he is not too far away, because a small distance is considered negligible, and such a distance does not appear to cause a notable inconvenience to the parishioners. Furthermore, the reasons presented by the archpriest to obtain permission must be considered, which certainly seem to have some weight. Barbosa, in "De parochis," p. 1, chapter 8, number 36, as cited in Anglonen and Tursien, "Residentiae," February 22, 1851, states that dispensations have sometimes been granted to parish priests due to the lack of a suitable dwelling within the parish, or due to inclement weather, which would indeed seem to be valid reasons in the present case. Moreover, what the archpriest Gamba reported regarding the narrowness and unsanitary conditions of the parochial buildings is also fully confirmed by the Ordinary. However, several resolutions of the Sacred Congregation can be cited in opposition to this. It should be noted that these resolutions often arose in particular cases, with particular circumstances, but even here, not one or the other, but several reasons together may concur, which perhaps suggest a softening of the strictness of the law. Finally, it would not seem necessary to require the archpriest to remedy the inconveniences that make the parochial house unhealthy; for if the Ordinary has not done so, the presumption arises that the beneficial revenues are insufficient for extraordinary renovations. Therefore, it would not be entirely inappropriate to invoke the principle of law: "what is not permitted by law, necessity makes permissible." Chapter: "Quod non est extr." From the rules of law. WHAT APPEARS TO BE OPPOSED TO THE PETITION. On the other hand, it must be noted that the requests of the archpriest openly contradict the Tridentine law, Session 23, chapter 1, "De reform," which strictly requires personal and constant residence in one's church, especially for those who

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have the care of souls. This must be understood in such a way that the parish priest's dwelling must not only be within the limits of the parish, in a convenient and suitable location for all, but "indeed in a house near the church, intended for the residence of the parish priest, as has been stated on several occasions by the Sacred Congregation."

[*Latin ed. p. 79*]

No mountain district is exempt from this obligation. From Lucca, in the year of Our Lord, concerning the Council of Trent, Decree IV, number 11; the Sacred Congregation in Ravenna, book 2 of Decretals, in Tarragona, dated March 24, 1736, concerning the first doubt; in Fulginata, August 19, 1752, concerning the first doubt; in Tivoli, July 29, 1786, etc. And if, at times, dispensation has been granted to certain parish priests, due to the lack of a suitable parochial residence or for other similar reasons, it is granted by ordering them to reside in the nearest parish, with the added condition that a substitute remain in the parochial church. Barbosa, *De parochis*, page 1, chapter 8, number 36; Gallemart, *In Conc. Trid.*, number 10. Furthermore, the decree of Fulginata, dated May 10, 1687, concerning the third doubt, "Whether those parish priests, who otherwise reside during the day at their churches, may, during the night, spend the whole or a greater part of the time in the city, even if substitutes are present at said churches," states: "No." However, considering the reasons presented by the archpriest, with regard to the first point, it was noted that the inconveniences of parochial buildings generally do not excuse one from the law of residence, as in the aforementioned decree of Tivoli in the year 1786, the Sacred Congregation ordered the parish priest to build a suitable parochial house; and if this time limit is exceeded, he must reside within the parish and in the parochial house itself. Nor could it be permissible to excuse one from residence because of a house that suffers not only from narrowness, but also from unsanitary conditions; for if the severity of the air is not sufficient reason to be invoked, as is evident from the aforementioned decree of Tarragona, and from Agde of the Goths, March 16, 1641, and from Nicaea, August 4, 1645, then for the same reasons, it would be permissible to argue the same. Similarly, with regard to a small number of parishioners, Fagnanus, in chapter 1, section 2, number 21, referring to a question, states that "The Sacred Congregation was consulted whether a parish priest is obliged to reside, even if there are only three or four inhabitants in that parish, and it responded that he is obliged." This same thing is testified to have been decreed in a certain case on October 3, 1661, by Benedict XIV, *Instit. Eccl.*, 17, number 16. And the archpriest, the speaker, might seem to be aided by the weight of years or by...

[*Latin ed. p. 80*]

80. The weakness of any excuse is null. For, besides the fact that this is

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entirely excluded by the Ordinary, concerning both reasons, Benedict XIV, in the aforementioned passage, number 14, recalls that the Holy Congregation declared on April 6, 1647, that "neither old age, nor poor health, excuses the parish priest from personal residence." Having briefly discussed both points, the following question was to be resolved: Whether and how the petition of the archpriest Gamba should be approved in this case. The Holy Congregation, after deliberation on April 9, 1892, decided to respond: Affirmatively, provided that the parish house be restored within a very short time set by the Ordinary, so that it may be restored to its former condition. From which, the following may be gathered:

I. Personal and constant residence of parish priests at the parish church is strictly commanded by the law of Trent.

II. Thus, the material dwelling of the parish priest must not only be within the limits of the parish; but it must be near the parish church, in a convenient location, and accessible to all.

III. Neither inclement weather nor a small number of parishioners, nor old age, nor poor health, can be invoked as a reason for a dispensation from residence, as the Holy Congregation has often decided.

IV. However, the inconveniences and narrowness of parish buildings have sometimes given the Holy Congregation the opportunity to set a deadline for the restoration of the building, suspending the law of residence in the meantime.

[*Latin ed. p. 81*]

81. BAIONEN. ACTA PAROCHIALIA DIEI 9 APRILIS 1892. Sessio 24, cap. 1, De Reformatione Matrimonii. SUMMARIUM CASUS. Regio civitatis Baionensis, quae ad septentrionem et orientem extenditur trans flumen Adour, et quae, ut fertur, anno 1858 primum ad urbem accessit, partim continetur intra limites paroeciae Sancti Spiritus, et partim subiecta est iurisdictioni paroeciali ecclesiae suburbanae dicatae Sancto Stephano. Ultima autem haec pars praecipue cohaeret cum aedificiis et viis quae ex publicis latrinis ibi existentibus vulgo "quartier de l'Abattoir" appellantur, et per viam ferream, ubi clivus ascendit, ab reliquo territorio paroeciae Sancti Stephani separatur. Incolae huius "quartier de l'Abattoir", ut id quod diu desideraverant consequi posset, anno praeterito apud Episcopum instaverunt pro dismembratione suae regionis a paroecia Sancti Stephani et adhibenda ad alteram paroeciam Sancti Spiritus. Sed, contra vehementem oppositionem parochi et consilii fabricae Sancti Stephani, Episcopus praeferens ad sapientem Sacram Congregationem Consilii iudicium provocavit. Parochus et moderatores fabricae Sancti Stephani, dum momenta rationum quae dismembrationi sunt contraria exponunt, et damna quae inde ecclesiae suae essent obvenientia perpendunt, expostularunt, ut si contra voluntatem res succederet, compensatio annua libellis 600 a fabrica Sancti Spiritus paroeciae Sancti Stephani solveri deberet. Ex altera parte, preces

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similes iteratae sunt. Hic tamen notandum est, licet preces hae nomine incolarum "du quartier de l'Abattoir" propositae sunt, ab oratoribus non subscriptae sunt, nec alibi ex actis constare videtur quot et qui dismembrationem desiderant. Vicariatus generalis, iussu et nomine Episcopi, de veritate rerum quae amplissimis verbis exponuntur testatus est, et votum suum dedit favente his precibus. Acta, Tomus XXV, fasciculus CCXC, 6.

[*Latin ed. p. 82*]

82. BAIONEN. Concerning the division of parishes. WHAT FAVORS DIVISION. In order that those things which seem to favor division might be made clear, the following was noted: A legitimate cause for division is held in law, if the parishioners cannot conveniently reach their church, either because of the distance of the place, or because of the difficulty of access. It must be diligently noted, as Fagliano states in *Cap. Ad Audientiam De Eccl. aedi f. i i . 1 et seqq.* and as the Council of Trent states in *cap. 4, sess. 21*, that in the Decretals it was said "without great difficulty," which was rightly changed to "without great inconvenience"; for we can only do what we can conveniently do, as St. Jerome says in *rec. ff. de verb. signi f.* Therefore, the rigor of the ancient canons concerning the distance of places and other causes should not be insisted upon too strongly, since even the greater convenience of the people can suffice for granting division, as is read in Laquedonien, *Dismembrationis Paroeciae, 16 December 1776, § Addi.* Furthermore, it is well known that the pious Mother Church, who best holds the salvation of souls as her supreme law, and that the parish priest is given to the people, not the people to the parish priest, has adapted her disciplinary regulations to various times, as Thomas states in *De nov. et vet. discipl., p. 1, cap. 18, n. 17, lib. 3, cap. 56, n. 19, and p. 2, lib. 1, cap. 45, n. 13 et 14.* With these premises, the reasons for obtaining division from the inhabitants of the region "de l'Abattoir" are: the difficulty of reaching the church of St. Stephen, which is 1800 meters from the center of the region and 2200 meters from several dwellings; the ease of fulfilling religious duties arising from the proximity of the church of St. Spirit, which is located in the city, and the flat terrain. The region which has the church of St. Stephen is separated from the rest of the parish by a railway; while it forms one body with the parish of St. Spirit. Those things, whether concerning the distance of the region "de l'Abattoir" from both churches, or concerning the difficulty of ascending to the Cleve on which the church of St. Stephen stands, are fully shown in the topographic maps, and are also attested.

[*Latin ed. p. 83*]

BAIONEN. 83. Municipal parishes appear to be subject to expert scrutiny. Furthermore, the General Vicar explains that if matters are presented with even a slight difference, this is the case. Regarding the distance that must exist for parishioners to be considered unable to access

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the church without significant inconvenience, since this is not definitively defined by law, it is left to the judgment of the judge. Fagnanus, loc. cit. Therefore, one would err greatly in proceeding solely on the basis of certain decrees or decisions of the Sacred Congregation, as noted by Cardinal De Luca, Annoi. Conc. Trid. disc. 16, when granting or denying a division, since the question is one of pure fact and should rather be decided based on the individual circumstances of each case. Therefore, the Sacred Congregation has sometimes decreed a division, as in Aquinatem, or Sorana, on January 29, 1847, and in Verulana, on May 10, 1862, because experience showed that parishioners rarely had access to their church and that a closer church, or to remove inconveniences, was desirable for the Bishop. Moreover, the General Vicar himself refers to these same points. All of this should be given greater weight, because in this matter, the prudence of the Ordinary is most important, who, after all, is best acquainted with the nature of the places and the needs and benefits of the flock entrusted to him. Rebufius, in Praxi benef., part., c. 1 de erect. in cur. et parodi. Furthermore, it may be added that, as Barbosa points out in De off. et pot. Ep., p. 3, alleg. 68, n. 4, the consent of the people is not required for a division, although the Sacred Congregation often seeks the opinion of the majority of the parishioners, especially if it is unanimous and based on sound reasons, as may perhaps be seen from Cassanen, Dismembrationis, December 17, 1740, Vintimillien, Dismembrationis, August 7, 1818, etc. It is worth noting that the General Vicar presented to the Sacred Congregation a petition unanimously presented by the inhabitants of "l'Abattoir" to obtain the annexation of the Church of the Holy Spirit. Nor is the necessity for a division excluded by concession.

[*Latin ed. p. 84*]

84. BAYONNE. The parish priest of St. Stephen testified that the Sacraments were being received in the church of St. Spirit, which he had separated from the parish of "l'Abattoir." For, besides the fact that this very separation demonstrated its uselessness, the facts, if we are to believe the Vicar General, completely contradict the claims and present a danger of schism. Finally, the parish priest of St. Stephen fears the damage that would be caused to his parish if the prayers of the inhabitants of "l'Abattoir" were accepted. The Vicar General, presenting the S.O. (presumably a report) of the reasons for the separation of the same parish for the year 1890, demonstrated that the damage would be minimal. Furthermore, regarding the alleged great diminution of the population, the author cites a document from the municipal authority, in which it is stated that in the census of the year 1891, the inhabitants of the region of St. Stephen, without the population of "l'Abattoir," were numbered at 2286; while the population of St. Spirit and the region of "l'Abattoir" did not exceed 5496 citizens; and it adds that the parish of St. Stephen, despite the separation, will number more than

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2000 inhabitants, who constitute a respectable parish. Furthermore, the author states that approximately one thousand Hebrews must be subtracted from the population of the parish of St. Spirit. Although the number of the population is stated differently in the diocesan calendar, this is not to be considered in this case, both because the inhabitants of "l'Abattoir" are also described as belonging to the parish of St. Spirit, and also because the population figure was taken from a census made some time ago. Therefore, since there is no evidence of any damage, any compensation should be excluded.

WHAT IS OPPOSED TO THE SEPARATION. On the contrary, it should be borne in mind that the sacred canons, especially those concerning parochial benefices, strongly oppose their separation, since such a separation appears to be a form of alienation, and is therefore often considered odious in law. *Ab. in cap. 3 Ad Audientiam De Eccl. Aedi*; *Reiffenstuel lib. 3 Decret, tit. 48, § 2*; *Amostazo De caus. piis lib. 5, cap. 3*. Indeed, a separation disrupts the ancient community, destroys the ancient customs with its former pastor, and subverts arrangements that have long been in place. *Lotterius De re benef. I. 1, quaest. f v r*.

[*Latin ed. p. 85*]

BAIONEN. 85, lines 17. Hence, it has come to pass that, just as legitimate reasons and certain formalities are required for alienations, so too they are required for the division of parishes. The canonical reasons for determining the division of parishes consist in necessity or evident benefit to the Church, as flows from the disposition of the Council of Trent, Session 21, chapter 4, On Reform; and they are taught by Rebuffus in practice, title on the revocation of unions, no. 6; Reclusius, On Parochial Matters, part 4, title 12, no. 63; and by the Sacred Congregation in Derthonen, April 5, 1732; in Terracina, March 17, 1781; in Ancona, February 12, 1803, etc. Indeed, in this matter, the pastor of St. Stephen's contends that there is no need. He states that, with regard to the distance of the region "de l'Abattoir" from the parish church, he has entrusted the task of calculating it to two experts, Michael and Baptista Dousdebet, whom he says are prepared to confirm what they have asserted, even under oath. From their testimony, he affirms that the distance separating "l'Abattoir" from the Church of St. Stephen does not exceed 1200 meters up to the first houses of "l'Abattoir," and 1800 meters up to the center of the region. However, even if it were given, as is asserted on the contrary, that the distance of the region "de l'Abattoir" from the church of St. Stephen is to be calculated as 1800 meters, this does not, therefore, constitute the reason required for division, according to what is taught by Fagnanus, cited, chapter On Hearing, no. 23, and which has been repeatedly affirmed by the Sacred Congregation, as can be seen, among others, in Constantia, June 27, 1761; in Piacenza, April 19 and May 10, 1766; in Lanciano, November 18, 1747; and in Novara, August 12 and November 18,

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1747. In the latter, the petitions for the division of the parish were rejected, although a distance of three miles was alleged, together with the absence of any safe roads. Nor would it be proper to appeal to the difficulty of the journey in this case. Indeed, the pastor of St. Stephen's writes that there is no difficulty, due to roads, and he attempts to demonstrate this. Therefore, since the road leading from the region "de l'Abattoir" to the church of St. Stephen appears to be completely passable in all respects, and does not impede the parishioners,

[*Latin ed. p. 86*]

86. In the matter of Baionen, it was necessary to request the parish church with a clear distinction, and to entirely exclude any other legitimate cause for division. Indeed, it is true, as stated by the parish priest himself and the building committee, that a more convenient path leads to the church of the Holy Spirit than to the parish church; however, it would not be permissible to infer from this a significant inconvenience to the faithful of the region "de l'Abattoir." Furthermore, it cannot be said that a greater or lesser convenience for the people constitutes a legitimate reason for division, otherwise, many parishes would have to be divided. Moreover, the parish priest of St. Stephen denies that a significant inconvenience, as required by the sacred canons, exists in this matter. To this may be added that the cause for division must be precise, evident, and absolute, as stated in chapter 1 concerning ecclesiastical matters, and as Lotterius states in *De Re Beneficiaria*, I, 1, chapter 28, number 30, and therefore, it must be placed beyond all doubt: "Therefore, if the cause exists, and is proven, then, and only then, is the erection [of a new parish] permitted," as Fagnanus states in 3 books of decrees, chapter 3, number 15. This proof of the cause appears to be of such necessity that the assertion of the Bishop alone, based on an extrajudicial investigation, is not sufficient, as stated by Cardinal De Luca in *De Beneficiis*, discourse 45. Indeed, in this case, legal proof is completely lacking, and the requests are based solely on assertions. Furthermore, the parish priest believes that the Bishop has not revealed his mind to be favorable to the division. From these points, it can be inferred that the presumption of the absence of a legitimate cause is not without reason. Furthermore, in order to legitimately decree a division, the parishioners must be summoned, as stated by De Luca in *De Parochis*, page 3, discourse 3, discussion 35, number 6, and in *Rota Recent*, page 13, decrees 29 and 165. And although a decree can be issued even against their will, nevertheless, they must be heard, to see if they wish to present any arguments against the division of the parish, as stated by Barbosa in chapter 5, session 21, *De Personis*, number 8, and by Monacelli in *Formularum*, volume 1, title 2, formula 7, number 3. However, in this case, it is clear that not only the entire population of St. Stephen, but also the inhabitants of "de l'Abattoir,"

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have not been consulted.

[*Latin ed. p. 87*]

BAYONNE. 87. Indeed, it is not without reason that prayers are offered to the Bishop and to the Sacred Congregation, that the sentiments of the greater and more pious part of the parishioners may be expressed. Finally, the pastor and the council of Saint Stephen request from the Sacred Congregation that, if, notwithstanding the reasons presented, it should seem opportune to decree the division, at least a suitable compensation be assigned to their parish. In order to achieve this, they enumerate the damages that will result therefrom. To make these matters more clear, they present a page from the diocesan calendar, in which a description of the population of both parishes is given in these words: "Saint-Esprit: population 5,152; Saint-Étienne: population 1,900." Furthermore, if, through the division, 750 inhabitants are taken from the parish of Saint-Esprit, while this parish will consist of almost six thousand souls, a number which Pope Pius VI, in his Apostolic Letters of March 10, 1791, strongly lamented as being established by civil law in France for each parish, the parish of Saint-Étienne will lose more than a third of its population. From this, the pastor observes, the way will be opened to the ultimate ruin of this parish. Moreover, considering the existence of these damages, it would seem just to provide some compensation to alleviate the poverty of the parish of Saint-Étienne; this could be done either by paying a certain sum in a single payment, as in Bayonne, March 22, 1766, or by imposing an annual contribution on the pastor of Saint-Esprit in favor of the parish of Saint-Étienne, as was done in Angoulême, December 20, 1704. Therefore, after all these considerations, the question to be resolved is: Is it permissible, and under what conditions, to divide the region of l'Abattoir in the city of Bayonne, from the parochial jurisdiction of Saint-Étienne, and to annex it to the parish of Saint-Esprit?

RESOLUTION. The Sacred Congregation, after deliberation on April 5, 1892, decided to respond: Affirmative, under certain conditions (1).

(1) See references regarding the division of parishes: Vol. I, 520, 543; Vol. III, 396, appendix on the consent of the pastors and people in the division of parishes, Vol. XI, 287; Vol. XIII, 60, 289, 293; Vol. XV, 569; Vol. XVII, 100; Vol. XVIII, 315, 595; Vol. XXI, 400, 721; Vol. XXII, 69, 361, 660; Vol. XXIII, 263, 682; Vol. XXIV, 27.

[*Latin ed. p. 88*]

88. DISPENSATION FROM IRREGULARITY, GRANTED BY THE COUNCIL OF TRENT. March 5, 1892. By summary petition. The Bishop of Trent, in a letter dated December 14 of the preceding year, humbly implored the benevolence of the Supreme Pontiff, writing: "Caesar, recently received among the students of the theological seminary of Trent, suffers from a defect in his left hand, namely, that some years ago,

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due to an explosion of gunpowder, the joints of his hand were injured; consequently, he is unable to oppose the thumb to the other fingers. Therefore, having begun his journey towards the priesthood, he would not be able to celebrate Mass properly, nor to grasp and break the sacred species with the two preceding fingers of his afflicted hand. However, with regard to the substance of the matter, he is perfectly capable of performing all the rites without impediment or deformity; for he has strong index and middle fingers, and with their use, he would be suitable for all that is prescribed to be performed properly, and indeed without causing any astonishment among the assembled people, since, apart from the weakness and rigidity of the thumb, his hand is free from any deformity; all of which has been verified by experiment and by the testimony of the episcopal ceremonialist, which is appended here. He is, moreover, a young man of good hope, who, as it is well to foresee from his vocation, which has been clearly and evidently demonstrated, will be able to serve the Church of Trent, which greatly needs such men, and which is now suffering a serious shortage of priests. For this reason, the aforementioned Caesar humbly and earnestly requests that Your Holiness deign to grant him a dispensation from this irregularity, in order that he may be lawfully promoted to the higher orders and to the priesthood; and this petition, concerned as the undersigned Bishop is with the number and condition of priests, he supports with all his strength, commending it humbly and earnestly." SUMMARY OF THE FACTS.

[*Latin ed. p. 89*]

TRENT, 89. Furthermore, in addition to the ceremonial vow, the aforementioned account of the misfortune, which Caesar suffered without any fault whatsoever, reveals the following concerning the completed experiment: The natural strength is present in the left hand, except for the thumb. The minister skillfully carries the chalice, uncovering it; he supports the paten towards the altar with the aid of the index and middle fingers; likewise, he elevates the Holy Host with those same fingers; and he performs this action in such a way that it is not apparent that the thumb is not being used. For the distribution of Holy Communion, he firmly supports the paten, and he carefully wipes the inner part of the middle and index fingers. He easily manages the pyx for the communion of the faithful, and no deformity is apparent.

SYNOPTIC DISCUSSION. GRACE SEEMS TO BE DENIED. It is sufficient to note that the established laws, which exclude those with bodily defects from the ministry at the altar, are widely known, and that a dispensation from irregularity, arising from a bodily defect, is generally more difficult to grant to those being promoted. In fact, it is observed in the Sacred Congregation that those who are not already granted grace do not possess the same reasons that would suffice to grant grace to someone

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who is then found to be irregular. Hence, in Policastro, on March 21, 1863, the petitions of a certain Vincent Balbi, who had a fleshy stump in place of the middle finger of his left hand, and who lacked one phalanx of the index finger of the same hand, were rejected, even though the Ordinary had testified to the absence of irreverence towards the divine and the people's admiration, and to the benefit to the Church, with the response: "It is not advisable." This has also happened in other similar cases, as can be seen in Pamphilone. Dispensations were granted on September 13 and November 22, 1856; in Padua, on April 27, 1861; in Burgen, on January 24, 1864, etc.

GRACE SEEMS TO BE TO BE GRANTED. Nevertheless, despite these considerations, it cannot be denied that examples can be presented of those who, even with more serious irregularities, have obtained a dispensation from the Sacred Congregation. Thus, in Cephaluden, on June 16, 1866, grace was granted to the cleric Joseph Gianni, of the left...

[*Latin ed. p. 90*]

90. In Trent, a hand entirely lacking a thumb, and recently, a cleric named Calderoni in Novara. On June 27, 1891, although his right hand was missing one phalanx of the thumb and two phalanges of the index finger. Therefore, a dispensation seems to be requested for particular and verified reasons, and especially for the good of the diocese; all of which, as appeared from the letters of the Bishop, were considered by the Emissary Judges. Considering these matters, the question was raised as to how the prayers of the petitioner should be granted. RESOLUTION. The Holy Congregation, having been informed on March 5, 1892, decided: "For the grace." MADRID. REGARDING THE VOLUNTARY COMMUTATION. On May 21, 1892. Through summary prayers. During the month of January of the current year, Augustus Dasnoulet, a priest of the Congregation of the Most Holy Redeemer and the superior and visitor of the houses of the same Congregation in Spain, humbly reported the following in a letter transmitted to the Holy Fathers: "Through a private writing, made in Madrid on January 19, 1875, the deceased priest, Andrea Noboa, bequeathed to our Institute, with benevolence, public bonds, of the nominal value of one hundred and ten thousand (110,000) Spanish royal [pesos], i.e., 2,750 Italian [lire]; which bonds bore an annual interest of 3,300 [pesos], or 825 [lire], with the intention that the Holy Sacrifice should be celebrated by us in Madrid, or by another priest appointed by us, in the academy or school erected for this purpose; or, if we could not assume this burden, that sum, with the same attached obligation, should be transferred to priests of the Vincentian institutions of the Mission. If such were the case, a SUMMARY OF THE FACTS.

[*Latin ed. p. 91*]

IN MADRID. 91, it was stipulated that this plan could not be entrusted

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to us, nor to the priests of the Mission, for execution, nor could any remedy be provided for this matter by the Most Reverend Ordinary; therefore, we were granted the power to retain the principal sum and to expend its fruits on works of charity or on intentions for Masses. At the time this donation was made to us, our Congregation in Spain was still suppressed, and it had been nearly a decade since it ceased to exist, before it could revive there. However, since the establishment of the aforementioned liturgical academy, in the manner requested by the donor, could not be carried out by us, we inquired of the missionaries of St. Vincent in Madrid, whether they themselves would be willing to undertake the matter. They responded negatively. Furthermore, the Archbishop of Toledo, who was then the Ordinary in Madrid, was also asked, and he gave the same response. "Given these circumstances," the humble petitioner explains, "according to our rule, we receive into our houses clerics and priests who wish to engage in spiritual exercises under our direction, and we then give them special instruction concerning the sacred liturgy and rubrics; our rule requires that our priests be properly versed in this matter, and that they establish academies of rubrics among themselves at fixed times. However, since we are engaged in building the church and house in Madrid from the foundations, the petitioner implores Your Holiness to allow the aforementioned principal sum, which, due to the calamities of time, has been invested in another way so that it would not be entirely lost, and which now nominally amounts to 17,500 livres, yielding approximately 500 livres annually, to be expended on that part of the buildings which is intended to house priests and clerics who wish to dedicate themselves to spiritual exercises with us." Such prayers of the petitioner, "who is about to construct the aforementioned buildings on the land already purchased, relying almost solely on divine providence," are earnestly commended by the General Superior of the Congregation of the Most Holy Redeemer. Furthermore, the letter, or private writing, of the priest Noboa, which was mentioned above, was attached to the petition, and a significant part of it is deemed appropriate to be included here. In it, "

[*Latin ed. p. 92*]

92. In Madrid, it is written: "Since I have in my intentions the founding of an academy or school of the liturgy in Madrid, so that it may provide for the needs that are found there, I open my mind to you, and I indicate the norms that must be kept in view in this undertaking, as time permits. The following norms must be observed: 1. It would be best if the Congregation of the Most Holy Redeemer, to which I belong, with the help of some of its members, were to bring this my plan to fruition. If this cannot be done, then let the same Congregation appoint an external priest, to whom a portion of the revenues shall be assigned, while the remaining portion shall be reserved to the Congregation, for the care and vigilance that it

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should always exercise with regard to the fulfillment of this foundation. 2. If the Congregation of the Most Holy Redeemer is in no way able to carry out the founding of the academy, then I hereby constitute you all as my mandataries or delegates, so that you may hand over the sum of money that I provide to the members of the Congregation of St. Vincent de Paul, who are already aware of this; and these, endowed with the same powers as yourselves, shall establish the aforementioned academy. Since this is most in conformity with the purpose of this institution, I do not doubt that they will gladly accept it. 3. If, however, the members of the Congregation of St. Vincent de Paul do not wish to assume the burden of the founding, you may await a more opportune time, but in the meantime, you may, if possible, make use of an external priest, as I have said. The same applies in the case where the burden of establishing the academy has already passed to the members of the Congregation of St. Vincent de Paul. 4. It is necessary to note that, with regard to those things that are necessary, you must consult the Diocesan Prelate, so that he may deign to grant his favor and assistance to this work, which can wonderfully serve to promote the spiritual good of the diocese and the glory of God. 5. If such circumstances should arise, and there is no hope of establishing the academy, because neither you, nor the members of St. Vincent, can erect it, nor can the Bishop provide any remedy, then it will be permissible for you to retain the sum of money, and the revenues shall be used for pious works of charity or for Masses to be celebrated by yourselves. 6. For this aforementioned foundation, I establish the sum of twenty...

[*Latin ed. p. 93*]

MADRID. 93 thousand five hundred books (ten thousand nominal reales in titles of 3%, consolidated) will be held in public names, from whose revenues approximately 825 books (3,300 reales) will be deducted as taxes. If such revenues are not received in full, then all of this will be given to the external ecclesiastic appointed to teach, as agreed between you and him. The sum of money (the fund) will remain with the Congregation, either yours or that of St. Vincent de Paul, with full power to exchange or alienate it so that it may be established in safer titles. This sum of money, whether I give it to you directly or expressly instruct my heirs in my will to do so, I entrust to the Congregation of yours or the Congregation of St. Vincent de Paul, with good faith, because of the trust I have in you, hoping that you will accept my proposal, which is directed towards greater glory of God." The Bishop of Madrid, for information and opinion, as is customary, stated in his letter of March 2nd, which he considered should be brought to the attention of the Sacred Congregation for the Propagation of the Faith: "As soon as I examined Your Eminence's letter, I immediately sought testimony and an opinion from the superior priests of St. Vincent de Paul, who both verbally and in writing immediately

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informed me that no one had ever acted with their Congregation on this matter; indeed, after consulting with the individuals in my family whom it was necessary to consult, they all, with one voice, stated that they were completely unaware of the very existence of the matter. Furthermore, the same superior added that the acceptance of the donation, about which we are speaking, would in no way benefit his Congregation. Regarding the Archbishop of Toledo, I can say nothing, since His Eminence Cardinal Moreno, who held the primatial chair of Spain at that time, has passed away in recent years; however, I will not hesitate to inform Your Eminence that neither a word nor a point of the alleged negative response can be found in the archives of this Episcopal Chancery. Furthermore, in this new Matritensis-Complutensis diocese, according to the rules of the Council of Trent, a seminary in Madrid was established.

[*Latin ed. p. 94*]

94. In Madrid, a foundation has been established, where young men diligently study the ecclesiastical sciences, and where, although the seminary itself is already very large and esteemed, its construction progresses more and more each day; it seems to me that the intention of the founder could not be better fulfilled than through this seminary, by establishing, namely, a Chair of Liturgy, which perhaps could be directed by the master of ceremonies of the cathedral itself, or by another suitable person, and from which young clerics, future pastors of the entire diocese, would be instructed in these disciplines of great value."

Synopsis of the discussion. A few things must be added to the legal arguments. First, it seems to contradict the most sacred principle of law, which requires that the wills of testators be religiously fulfilled and treated as law, so that, without a just and necessary cause, pious dispositions cannot in any way be converted to uses evidently better, according to chapter 6, session 22 of the Council of Trent. Ferraris, *Legatum*, vol. 3, no. 69. Reiffenstuel, 111, 26, no. 804. D'Annibale, *Summa theol. mor.*, vol. II, no. 379, etc. Furthermore, the testator's will is clearly expressed, which commands that the fate of the money be preserved, and which, after admitting the substitution of members of the Mission, expressly warns that if the institution of the liturgical academy, which the founder intended to establish, could not be brought to fruition, the income derived from the designated sum should be used for the celebration of Masses and other works of charity. Moreover, the reason given by the Congregation of the Most Holy Redeemer to obtain this dispensation seems to regard the private benefit of the petitioners rather than the public good, and may even tend to the detriment of the Diocese of Madrid, and therefore may not be sufficient to grant a change of will. It should also be noted that the testator's recent will, according to the practice of the Holy See, is more difficult to change, lest others be deterred

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from pious foundations.

[*Latin ed. p. 95*]

MADRID. 95. All these things, at least in part, could indeed be adapted to the purpose of the Bishop, especially considering that the testator did not replace the President of the Congregation for Missions, but rather considered it prudent to consult him in order to provide favor and assistance in specific cases. Nevertheless, it must be remembered that, according to the decree of the Sacred Congregation of the Council, chapter 6, session 22, concerning the reforms of the Council of Trent, the wills of testators have been altered many times, where, considering the circumstances, a greater benefit or a just cause would suggest it. Indeed, it cannot be denied that the construction of a house to accommodate priests who desire to dedicate themselves to spiritual exercises would bring great benefit, and would greatly contribute to the good of the entire clergy of the Diocese of Madrid. Furthermore, the advocate points out that the Fathers of the Congregation of the Most Holy Redeemer are accustomed to provide special lectures on the Holy Liturgy to priests and clerics who are staying there for pious retreats, so that even the testator's will could, in some way, achieve its effect through the granting of graces. As for the Bishop, it is clear that the petition presented by him is perfectly in accordance with the intentions of the pious founder, and it can be prudently presumed that, if he were still alive, he would have given his consent to this change in these matters. Furthermore, Schmalzgrueber III, title 26, number 208, states: "If a bequeathed legacy cannot be applied to a specific place, then pious legacies must be fulfilled in such a way that the testator's will is deviated from as little as possible." With these considerations in mind, the question arose as to what should be answered in prayer. RESOLUTION. The Sacred Congregation of the Council, after examining the matter, decided on May 21, 1892, to respond: Negatively and in accordance with the spirit.

[*Latin ed. p. 96*]

96. COMPOSTELLANA CONVENECTION. On March 5, 1892. Through summary prayers. The Archbishop of Santiago de Compostela seeks to ascertain, in accordance with the practices currently in force there regarding the provision of parishes, and in light of the laws of Trent, a judgment that may remove all doubt. He stated: "He intends to hold a convention for vacant parishes in this Archdiocese shortly, and to carry it out according to the sacred canons and the discipline established for Spain." According to this discipline, "Bishops announce a public and general convention, in order to provide for several parishes at the same time, not only those that are vacant, but also those that are about to become vacant: for from the approved candidates at the convention, the Regional Patron proposes three candidates; then, upon the approved candidates taking possession, new

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candidates are proposed for parishes that have become vacant from the first set of candidates (primeras propuestas), or which have become vacant through death or another canonical cause. And further successive sets of candidates (terceras propuestas) are then made." This manner of proceeding is recalled in article 26 of the Concordat between His Holiness Pope Pius IX and the Queen of the Spanish kingdoms, initiated in 1851, which reads: "Provision will be made for all parishes, without any distinction whatsoever with regard to places, classes, and the time of vacancy, through a public announcement of a convention, observing the norm prescribed by the Holy Council of Trent, and through the presentation of three candidates by the Ordinary from among the approved candidates at the convention, who shall be presented to His Majesty, so that he may be able to choose from among those proposed." Furthermore, this practice, although it appears to be in conformity with the laws of Trent, does not entirely align with the mind of the Holy Synod, as already indicated, and this is apparent to the Archbishop. He recalls in the same Tridentine Synod, Session 24, chapter 18, a summary of the facts.

[*Latin ed. p. 97*]

COMPOSTELLANA 97 prescribes: "that, after the examination, the examiners should report to the superiors those whom they have judged suitable in age, morals, doctrine, prudence, and other things appropriate for governing the vacant church. The superiors continue, that in this case, the examiners cannot judge the suitability of the candidates in relation to a specific parish, because they do not know to which of the several vacant parishes each one aspires, and that the judgment must be given before the Bishop forms a list of candidates; but the Bishop cannot include anyone he pleases in the list, but only those whom he judges to be more suitable among those who, after obtaining approval, have subscribed to specific and desired parishes." Therefore, in order that the Archbishop may safely proceed in this important matter, it seems appropriate to expound the authentic interpretation and to propose a doubt: "Whether the approval of the examiners, described above as indeterminate, is sufficient to fulfill the prescription of Trent, namely, for some of the parishes that are vacant or will become vacant."

SYNOPTIC DISCUSSION. THE PRACTICE SEEMS TO BE TO BE REJECTED.

In the first place, it could be observed that this indeterminate approval could apply to the future vacancy of any parish, both in letter and in spirit, to the law of Trent. Indeed, whether the words of the Synod, cited above, or the subsequent Constitutions of the Roman Pontiffs, namely, St. Pius V, *In conferendis*, March 15, 1567; Clement XI, January 10, 1721; and Benedict

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XIV, *Cum illud*, December 14, 1742, are explained, it is clearly understood that in the provision of parishes, a determinate approval of the examiners, namely, for the vacant church, is always required. And in truth, the Council of Trent not only, as the Archbishop of Compostela also implied, requires that after the examination, those who are judged suitable in age, morals, doctrine, prudence, and other things appropriate for governing the vacant church should be reported, but it had previously prescribed to the Bishops that, upon receiving notice of the vacancy of a church, they should immediately appoint a suitable vicar, and only afterward provide [for the parish]. Tom. XXV. fase. CCXG. 1.

[*Latin ed. p. 98*]

98. In the COMPOSTELLANA, it should be the case that a presentation of candidates should be made. Thus, likewise, St. Pius V in the cited Constitution stated, "When a parish church becomes vacant, and the bishop has knowledge of this vacancy, he should proceed to a presentation." This also occurs in the cited Constitution of Benedict XIV. But furthermore, the spirit of the law, which must be considered as the soul of the entire canonical disposition, seems to apply here. For the presentation is prescribed because "it is most conducive to the salvation of souls to be governed by worthy and suitable pastors." (Trident. loc. cit.). However, this end, which is most strongly achieved through presentation to a specific church, is often frustrated in practice in Hispania. It could well happen that someone who is judged suitable to govern a parish in general, may not be suitable for that particular parish to which provision must be made. Moreover, the intention of the Tridentine Council and the custom of almost all dioceses has clarified this, and the Sacred Council has consistently held it to be legitimate. As for whether the law of presentation can be observed, it does not appear at all clearly in the supposed article, since its own words seem to refer to reservations and affections, rather than to the manner of forming presentations. Nor, as is commonly said, is the observance appropriately invoked, whether because it is a matter of the Tridentine law, or because it is from those things which are condemned by Innocent III in Chapters 5 and 7 of *De Consuetudinibus*.

THE PRACTICE APPEARS TO BE QUESTIONABLE. Nevertheless, it must be considered that, although the practice in Hispania does not seem to be strictly in conformity with the Tridentine regulations, there are still reasons by which it can be justified. It must be admitted that the same practice is established in other regions, and especially in Germania, although no one, as far as I know, has disapproved of this method of acting. Let the words of De Angelis, *Praelectiones Iuris Canonici*, Book 3, Title 5, n. 22, be heard: "In Germania, the law of presentation is not applied in every case

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in which a parish benefice is vacant."

[*Latin ed. p. 99*]

COMPOSTELLANA: To them, however, due to circumstances, through general, semi-annual, and annual examinations, those who are deemed suitable for the care of souls renounce [their claims]. This method of complying with the law of examination is based on the final words of Chapter 18, Session 24 of the Council of Trent: "It will also be permissible for the Provincial Synod, if it deems it necessary to provide for or to add to anything concerning the form of the examination." Therefore, if the practice introduced in Germany through the Provincial Synods could have inflicted a wound upon the law of Trent, it is even more evident that it could have flourished in Spain through the law of the Concordat. For, no one doubts that the law presented by the authority of the Supreme Pontiff is worthy of observance, and that it is valid even in the case in which it derogates from common law; moreover, it is clearly to be held that this is true if it does not derogate from it, but only explains it, as seems to be the case in the matter under consideration. Furthermore, the Concordat, begun in the year 1851 by Pope Pius IX, between the Holy See and the Queen of Spain, sufficiently establishes this practice through the aforementioned Article 26. Indeed, it is stipulated there that the provision of parishes must be made through a public announcement and examination, and that this must be done "without any regard whatsoever for places, classes, or the time of the vacancy." Although these provisions, when viewed in their entirety, may not be entirely clear, they could be sufficient to support and observe, if not as introducing a new law, at least as an interpretative application of the aforementioned articles. Finally, regarding the argument presented by the Archbishop, namely that the examiners cannot judge the relative suitability of the examinees for a particular parish, it seems that this can be addressed; first, that its weight is not so great as to be able to violate the law of the Concordat; second, that the Archbishop can remedy this defect by taking into account the suitability of each individual in relation to the particular church when making appointments. With these points noted, the question arises as to what should be answered in prayer.

[*Latin ed. p. 100*]

100. RESOLUTION OF COMPOSTELLANA. The Sacred Congregation, on the 5th of March, 1892, decided to respond: According to what has been presented, the Archbishop should agree. LUCAN PAROCHIAL. On the 21st of May, 1892. Session 25, chapter 9, Concerning Reform. SUMMARY OF THE CASE. The curacy of the parish of Pontemazzori, near the town of Camaiore, in the diocese of Lucania, comprises approximately 300 inhabitants and 75 families, and is perpetually united to the parish of Montismagno, of which the pastor appoints a perpetual curate, whom he

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approves, and to whom he pays an annual pension. From a remote time, there have been serious disagreements among the inhabitants regarding the location of the parish church. Some maintained that the curate should reside, and perform the sacred functions, in the humble church of St. Andrew, situated in the valley, while others, on the contrary, maintained that the parish church should be the church of St. Lawrence, located on a high, sunny hill. The Vicar General of Lucania, Paulinus Dinelli, on the 18th of April, 1833, promulgated a decree beginning thus: Wishing to put an end to the controversies and disagreements, after having heard the advice of the Reverend Congregation of the Synod, we resolve and decree the following: that on certain more solemn days, namely, the Nativity of the Lord, the Circumcision, the Epiphany, Palm Sunday, Easter, Ascension, etc., the sacred functions should be performed in the church of St. Andrew; conversely, the Vigil of the Nativity of the Lord, the Greater Week, the solemnity of Pentecost, etc., and also all parish Masses, Vespers, and other functions which are customarily performed for the spiritual nourishment of souls, should be celebrated in the church of St. Lawrence. When such a decree received the support of the civil authority of the Duchy of Lucania, it was able to achieve its effect immediately and restore a brief period of harmony among the people.

[*Latin ed. p. 101*]

LUCANA 101 At this time, we find that the vicar resided near St. Lawrence's, where the Most Holy Eucharist was reserved and where many sacraments were administered; marriages, however, were celebrated either in one church or the other, according to the will and devotion of the individuals. But, conversely, funerals were always held in the church of St. Andrew, because it was the nearest cemetery. It is also worth remembering that this same church, at that time, completely lacked the buildings necessary for the parish priest's residence, and that these were, at the beginning of the year 1884, obtained with funds from the Giannini family, with the consent of the Archbishop. To avoid tediousness, I will pass over various causes that recently seem to have revived disputes among the parishioners regarding the vicar's residence. It is sufficient to recall that on April 2nd, 1887, in the Sacred Congregation [Consilium], a debate took place concerning the question: Whether it was appropriate to move the parish seat to the church of St. Andrew, or rather, whether it was necessary to adhere to the decision of the vicar Dinelli from the year 1833. Although the Ordinary and the rector of Montismagno were in favor of the move, the proposed question was dismissed with the response: "No" to the first part, and "Yes" to the second. This was confirmed again in the plenary assemblies on September 10th of the same year, 1887, with the formula: "Whether we should adhere to or depart from the decisions in this case." The Sacred Congregation responded: "Adhere to them and further."

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However, meanwhile, the parish priest, Charles Dini, who fought against the proposed move for the sake of the altars and the hearths, became so hateful to his opponents that his life was several times brought to the brink of danger. With these crimes, further threats were added, so that the parish priest Dini, never being able to remain calm, nor to exercise his ministry without danger, requested permission from the Sacred Congregation to leave the service of the parish, without renouncing the parish itself; in this way, he could enjoy the income of one hundred scudi derived from said benefice. Furthermore, he stated that he had served in the parish for 33 years, but that now, weakened by frequent illnesses and old age.

[*Latin ed. p. 102*]

102 Lugana was in a state of poverty, and possessed no other means of honest sustenance. The Archbishop was immediately requested to provide information and a recommendation, and also to report on the annual income and expenses of the parish of S. C. C. The Prelate, acting in accordance with custom, fully confirmed everything presented by the parish priest, and declared himself in favor of legitimate prayers for that cause; but he opposed any reservation of fruits or any kind of pension, considering the poverty of the parish. Indeed, he recalled that the same Vicar had presented, during the Sacred Visitation of the year 1887, a statement of accounts for the parish's assets, from which it was deduced that the annual income barely reached 600 *lire*, while the expenses exceeded 300 *lire*. Nevertheless, on December 23, 1889, a decree was issued by the Most Holy [See] stating: "Regarding the possibility of resigning from the parish, the parish of [name of parish] is declared vacant, reserving for the resigning parish priest an annual pension of 200 *lire* from the revenues of the parish, until otherwise provided, at the discretion of the Archbishop, who, during the pension, may dispense a new parish priest from applying the offertory masses for the people, except on more solemn days." After these events, the priest, Dini, left the village of Pontemazzori, and the unfortunate parish was left widowed of its pastor and deprived of all priestly ministry. On November 13, 1890, petitions from some heads of families of the locality of Pontemazzori reached the S. O. C. [Sacra Congregatio Consilii], in which they sought some remedy for their miserable condition, and at the same time, they blamed all those who were responsible for the translation of the parish residence to the church of S. Andrea. However, on November 15 of the same year, the Archbishop informed the S. O. C. that he had endeavored to send a priest to administer the sacraments to the souls of that parish, but that his efforts had been in vain due to the scarcity of revenues and threats of evil. He continued, "I will send a priest to celebrate Mass at the church of S. Andrea, but this is hindered by the decision of the S. O. C. which requires the parish priest to reside at S. Laurentium." Furthermore,

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these letters included a declaration from...

[*Latin ed. p. 103*]

LUGANA 103, which was drawn up by neighboring parishes, confirms the great difficulties facing the priest who ought to reside at the church of St. Lawrence. A Synopsis of the Discussion. It should be noted that neither the Archbishop, nor the rector of Montismagni, nor indeed others who, in the year 1887, favored the translation of the parish seat, had presented a petition to the Sacred Congregation for the further examination of this matter. Nothing further was undertaken by them, beyond what was explicitly stated in the Archbishop's letter. There, although the translation of the vicar's residence appears to be suggested as a possible remedy for the evils, only a general provision is requested in these difficult circumstances. Those who oppose the translation defend their right, which is securely established by the force of prescription, and they do not observe any detriment to this, on account of the audacity of some. Moreover, it is the case that 260 of the inhabitants, who constitute the entire population of the parish, live closer to the church of St. Lawrence, while only 71 live closer to the church of St. Andrew. With these matters presented, the question to be considered was: How should provision be made in this case? RESOLUTION. The Sacred Congregation, after deliberation on May 21, 1892, decided to respond: To the Archbishop, with all necessary and appropriate faculties, so that he may transfer the residence of the curate to the church of St. Andrew, as he shall judge best in the Lord.

[*Latin ed. p. 104*]

104. From the *Compendium* of Canon Law, compiled by the Sacred Congregation of Bishops and Regular Canons of Arlita. Christina Caboni, from the town commonly called Serramanna, in the Diocese of Calari, on August 20, 1891, presented a petition to the Sacred Congregation, stating that the family of Caboni had, for approximately one hundred years until very recently, lawfully possessed the key to the chapel in which the image of Santa Maria of Monserrato is kept, and that they had also been permitted to adorn it with their own ornaments during the vigil of the feast, which is celebrated annually on September 8. She stated that the key had been given to the wives of certain members of a Sodality, which was established in the aforementioned town in the year 1889, and that they had also been granted the right to adorn the image of the Blessed Virgin. Christina, deeply distressed by this, claimed that she had appealed to the episcopal court, which on August 10, 1889, had decided that nothing should be changed. However, since, despite this decision, the wives of the members of the Sodality had proceeded to adorn the image of the Virgin, Christina presented a new appeal to the episcopal court against this course of action. In addition, the general vicar decided to subject the matter to further examination, and after

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considering the arguments presented by Christina and by the confreres of the Sodality, he revoked the previous decision on July 20, 1891, and decreed that from that day forward, the key to the chapel should be permanently held by the parish priest, with the addition of the clause that, during the vigil of the feast of the Blessed Virgin, it should be handed over to the president of the Sodality, with the obligation placed upon him to return it to the parish priest after the celebration of the feast.

[*Latin ed. p. 105*]

CALARITANA 105. Overcome by this new development, Christina appealed to the Most Holy See, and to the Regulars, requesting that the decree of the aforementioned General Vicar be declared null and void, lacking any valid foundation. A Synopsis of the Arguments. WHAT APPEARS TO FAVOR CHRISTINA. It seems beyond doubt that the family of Caboni, having continuously and without opposition exercised the right to retain the key to the chapel, in which the image of the Blessed Virgin of Monserrato is kept, for more than sixty years, and almost a hundred years, up to the year 1889. This is asserted by Christina Caboni herself, and is corroborated by the priest Lai, who testifies that, since the year 1853, Christina has continuously held the key. Given this, it naturally follows that Christina cannot be deprived of this right. For it is known in law that such a long-standing practice not only has the force of law, but also possesses such efficacy that it can nullify any law, provided that, as in the present case, it is not unreasonable. See Cap. ult. de Consuet. Felin.; in Cap. 1, n. 13 de fren. ReifTenst.; lib. 1. Decret., tit. 4, n. 105. Indeed, not only does it provide a just basis for a claim, as De Luca argues in Dis. XCI, n. 16 de Benef., but it also creates a presumption of a privilege or Apostolic approval, as the same De Luca teaches in Dis. 1, n. 88; Dis. 15, n. 9; Dis. 16, n. 12 de Alien.; Dis. 10, n. 1 de Parodi. Furthermore, in matters of prescription, a practice lasting forty years puts an end to disputes and extinguishes any action, as stated in leg. 4 Cod. de praescript., 30 vel 40 annorum: "No private or public right, in any cause or against any person, which has been extinguished by the continuous silence of forty years, shall be revived." The law of Justinian, friendly to this principle, concurs with the Pontifical law in cap. 6 Decret., de Praescript., where the following is written: "A prescription of forty years completely extinguishes all action." It is even possible that the right to favor Christina is established by a prescription of thirty years in military matters: and this is so, according to...

[*Latin ed. p. 106*]

106 In CALARITANA, the testimony of the priest Lai demonstrates the claim. It is to be observed that, concerning the prescription of 30 years, it possesses the same force as the law in *Codex* 3, concerning prescriptions of 30 or 40 years, where it is stated: "Just as special matters, as well as univer-

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sal and personal actions, do not extend beyond a period of thirty years, but if a matter or right is sought, or if a person is persecuted by any action, then the agent will be protected by a prescription of thirty years." Indeed, in the matter at hand, since the observance is not contrary to the law, but rather beyond the law, neither forty nor thirty years of observance are required, but a ten-year custom is sufficient to establish a prescription, as De Luca states in *Disputationes*, 30, number 17: "This custom does not require an immemorial or forty-year period, with a presumed title, or its reputation in the manner required in those cases where the law resists, and with the presupposition upon which decisions are made in this cause, because it is not contrary to the law, but rather beyond the law, and consequently, a ten-year period is sufficient." Therefore, if the right to retain the key of the shrine of Saint Christina is granted by virtue of such a long period of observance, it seems that, *a fortiori*, the right to adorn the image of the Blessed Virgin should also be granted for this reason. Indeed, both from the testimony of the priest Lai, and from the information provided by the Archbishop of CALARITANA, and finally, from the very petition of Christina herself, it is clear that the aforementioned image of the Blessed Virgin was adorned every year by Christina until the year 1889. Certainly, the priest Lai, who resided in the town of Serramanna since the year 1853, when questioned about the matter, testifies that Christina adorned the image. To this, the Archbishop adds, in his informative statements concerning this matter, that he does not hesitate to assert: "This was always done by the Caboni family." Nor does Christina herself express herself differently, adding that this was not only done by her grandmother, but also by her great-grandmother. This is also demonstrated by the testimonies of the parish priest Vidili, and...

[*Latin ed. p. 107*]

CALARITANA: The canon Lussu, who for approximately 25 years presided over the parish, so declares. This is also confirmed by a decree of the episcopal curia dated August 10, 1891, in which the vicar general ruled that the parish priest should hand over the key to the chapel, in order that she might adorn the image of the B. Virgin before the feast day. Since it is established by fact that Christina has continuously adorned the image of the B. Virgin, this right belongs to her; therefore, the decree by which the vicar general deprived her of this right and transferred it to the wives of the members of the new sodality must be declared null and void, since this sodality never exercised this right before the year 1889.

WHAT IS OPPOSED TO CHRISTINA'S CLAIM: On the contrary, the Archbishop observes that Christina wrongly claims that the key to the chapel should be returned to her, because she asserts, but does not prove, that this right belongs to her by virtue of more than sixty years of practice. Indeed, it is the law that, when the plaintiff does not prove, the defendant must be acquitted. From Lucca, Disputation 2, number

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17, concerning judges: "Indeed, the most important and greatest effect is that concerning the burden of proof, which rests upon the plaintiff... so that if the plaintiff does not perfectly and conclusively prove what is the foundation of his action or intention, the defendant is acquitted." Furthermore, the deposition of the priest Lai should not be considered of any value, both because it is the testimony of a single witness, which has no force in judgments, according to the rule of law: "one witness, no witness"; and because, as the Archbishop observes, the priest Lai confuses two things that are most different, namely, the act of retaining the key to the chapel with the act of adorning the image of the B. Virgin. The Archbishop asserts that Christina has indeed continuously performed the latter act; but he contends that there is reason to say otherwise regarding the act of retaining the key to the chapel. Furthermore, the Archbishop contends that the statements of Christina, asserting that the right to retain the key to the chapel belongs to her, and that it has been continuously retained by her ancestors, are false, and that this can be proven by both the current parish priest and his predecessor, the canon Lussu. Indeed, both testify that...

[*Latin ed. p. 108*]

108 In CALARITANA, the key to the chapel was perpetually kept by the parish priest, from whom Christina requested it, before the feast of the Blessed Virgin, and it was given to her each year. Indeed, Canon Lussu adds that such a key was not granted by law, but by a certain tolerance, given to Christina each year. The Archbishop insists that there is no reason to doubt the truth of these depositions in any way, especially considering the testimony of Canon Lussu, who presided over the parish for 23 years and more. Therefore, since it is not established that the key to the chapel was perpetually kept by Christina's grandmother and great-grandmother, and by her mother and by Christina herself, up to the year 1889, while, on the contrary, it is proven that such a key was found with the parish priest, who gave it to Christina each year when she requested it: everyone can easily understand that the decree of the Vicar General, which stipulated that the key to the chapel should remain perpetually with the parish priest, must be maintained in full force. The Archbishop contends that this is also the case regarding the second point of the decree, according to which Christina was granted the right to adorn the image of the Blessed Virgin in place of the pious Sodality; and this for three reasons. 1. Because Lai, Christina's husband, is a malicious and avoidant man. 2. Because the pious Sodality has earned great merit both regarding the chapel, in which the image of the Blessed Virgin is kept, and regarding the image itself. 3. Because if the pious Sodality were to withdraw, the very existence of the Sodality, as well as the chapel and the worship of the Blessed Virgin, would be jeopardized. Since nothing good can be expected from the Caboni family, which is itself

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in extreme poverty. And this, the Archbishop insists, was the main reason why, by decree of July 29, 1891, the Vicar General ordered that the image of the Blessed Virgin be adorned by the pious Sodality from that day forward. Having considered both sides of the matter, the following proposal was made:

[*Latin ed. p. 109*]

CALARITANA, 10. Question: To whom does the right belong to retain the key of the chapel in which the image of the Blessed Virgin of Monserrato is kept, and also to adorn the aforementioned image during the vigil of the feast, which is celebrated on September 8th? RESOLUTION. After discussion by the Most Reverend Prelates and Regular Canons, on March 18, 1892, it was decided to respond to the aforementioned question as follows: According to ecclesiastical authority, and in accordance with the intention of the law, the Ordinary should take care of the matter. Doubts concerning the decree "Quemadmodum" (1). Most Reverend Father, In the decree issued by the Most Holy Congregation of Bishops and Regular Canons on December 17th of the past year, 1890, the following words are read: "His Holiness admonishes the Higher Prelates, that they should not deny an extraordinary confessor whenever those subject to them, consulting their own conscience, are led to request it, nor should these Higher Prelates in any way inquire into the reason for the petition, nor show any displeasure." Following these words are: "But that such a provident arrangement may not be rendered ineffective, the Ordinaries are exhorted to designate, in the places of their own Dioceses, suitable priests, instructed in the necessary faculties, to whom these [women] may easily have recourse for the sacrament of Penance." After careful consideration, and with the intention of the Most Holy Apostolic See to inflict no harm on the discipline of ordinary and extraordinary confessors, the following doubts arose for the Bishop of Malaca, which he submitted to the Sacred Congregation for resolution. I. Who is understood by the term "Prelate or Superior," to whom it belongs to grant or deny an extraordinary confessor to those subject to him? Is it the one who appoints the ordinary confessor, or rather, the one who is in charge of the house, whether male or female? (1) This decree was presented in Volume XXIII, page 505.

[*Latin ed. p. 110*]

110. DOUBTS. I. Whether, when a superior, by decree, cannot deny an extraordinary confessor, and indeed, does not seem inclined to grant the request, is the subject bound to always grant the prayers of the petitioner, even though he clearly sees that the necessity is feigned, or perhaps due to scruples, or some other defect of the mind, so that the true need is not apprehended by the petitioner himself? [II. If a prelate, who, from the words of a confessor, grants an extraordinary confessor to a subject, must he des-

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ignate in each case the name of the confessor, or can the Religious himself choose, among those designated by the Ordinary, who will fulfill this office? In the same decree mentioned above, this precept is found: "Whenever a confessor judges that, for the sake of fervor and spiritual progress, it is fitting for a Religious to approach the Holy Sacrifice more frequently than the days prescribed in their own rules, he may permit this to the Religious." But since in several Constitutions, approved by the Apostolic See, not only are certain days established for the Religious to approach the Holy Table, but it is explicitly forbidden for them to receive Communion beyond those prescribed days, as is the case with the Discalced Nuns of Santa Maria de Monte Carmel, the following doubt arises: Whether the Constitutions of certain religious families, which forbid nuns or Religious from receiving the Holy Eucharist beyond certain and established days, have been abrogated in this matter by Decree 17 of December, 1890, so that, notwithstanding these, it is permissible for a confessor to grant more frequent access to his Religious for penance, or whether, after the aforementioned Decree, they still remain in force? And God, etc. The Holy Congregation of Religious of the Roman Rite, entrusted with the affairs of Cardinals, and with the consultations of Bishops and Regulars, having considered the doubts proposed, has decided to respond as follows: To I. Negatively to the first part, affirmatively to the second. To II. Affirmatively; but the subjects are to be warned that they cannot request extraordinary confessors unless they are compelled to do so in order to consult their own conscience. To III. Negatively to the first part, affirmatively to the second.

[*Latin ed. p. 111*]

QUESTION III: Concerning the final question, which pertains to the abolition of those Constitutions which prohibit Monks or Religious from receiving the Holy Eucharist beyond certain and established days, in order to allow more frequent access to the Holy Synaxis. Rome, August 17, 1891. I. Card. VERGA, Prefect. Fr. ALOYSIUS, E.P. CALLINICEN., Secretary. DECREE from the Holy Congregation of Rites, for the City and the World, by which it is established that the feast of Saint Joseph, if it should occur on the Sunday of the Passion, shall be transferred to the second day immediately following; and if it should occur during the Major Week, it shall be restored to the fourth day after the Sunday in Albis, as its proper place. From which, the Supreme Pontiff Pius IX, established the blessed Joseph, the most pure spouse of the Immaculate Virgin Mary and the putative father of our Savior Christ, as the Patron of the entire Catholic Church, and the ancient piety of the faithful towards this illustrious Patriarch was wonderfully increased. And this piety, as if a new flame added, burned more fervently after the Most Holy Lord Pope Leo XIII, through his encyclical letters, dated August 15, 1889, celebrated the excellence of the dignity of this glorious Patriarch and his most powerful intercession with God, and did not cease to encour-

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age and favor devotion towards the heavenly Patron among the faithful. Consequently, requests were transmitted from all sides to the Apostolic See, that greater liturgical honors be granted to the blessed Joseph. Indeed, His Holiness, although deeply delighted by these supplications and vows made to Him, as they reflected the ever-increasing devotion of the people, nevertheless did not deem it fitting to enrich the same Saint Patriarch with a greater liturgical cult, which would alter the order wisely established in the Church for so long.

[*Latin ed. p. 112*]

112 FROM THE SACRED RITUALS. However, since the Feast of [Saint] Vincent is often fixed for the 14th of the Kalends of April, and because of its occurrence on the Sunday of the Passion, or during the week of the Greater Easter, it cannot always be celebrated on that day, and therefore its celebration must sometimes be prolonged beyond what is prescribed by the rubrics, lest this be detrimental to the special observance that all Catholics throughout the world offer together to their heavenly Patron; His Holiness, after consultation with the Congregation of Sacred Rites, has decreed that in those years in which the aforementioned Feast falls on the Sunday of the Passion, it shall be transferred to the second weekday immediately following, and that whenever it falls during the Greater Week, it shall be restored to the fourth weekday after the Sunday of the Resurrection, as if it were in its proper place; this being done while observing the prescriptions of the rubrics regarding the transfer of feasts that occur on the same days. This decree was ordered to be promulgated, and to be added to the rubrics of the Roman Breviary and Missal. August 15, 1892. C. CARD. ALOISI-MASELLA, SECRETARY OF THE SACRED CONGREGATION. To the Reverend Father Vincent Nussi, SECRETARY OF THE SACRED CONGREGATION. IOANNES PONZI, SUBSTITUTE. SPALATO. Doubts concerning the blessing of the baptismal font. The Most Reverend Philip Francis Nakic, Bishop of Spalato, humbly presented the following to the Sacred Congregation of Rites: "In the Diocese of Spalato, there is an ancient custom of blessing the baptismal font only on Holy Saturday and on the Vigil of Pentecost in the Cathedral, the Concatedral, the Collegiate, and in a few of the most important parish churches; for the use of the baptismal fonts of the remaining parish churches, blessed water is brought from the aforementioned churches. This custom, which is not in accordance with the prescriptions of the rituals, is probably derived from the fact that these parish churches were formerly dependent on those in which the baptismal water is blessed; and from the fact that in some parishes, due to a lack of ministers, the solemn blessing is difficult to perform, because the faithful do not attend church on those days." The same Most Reverend Bishop, having stated these things, requested that the Sacred Congregation of Rites

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declare: I. Whether this custom should be tolerated further?

[*Latin ed. p. 113*]

FROM THE SACRED CONGREGATION OF RITUAL, 113: Is the blessing of the font to be privately administered, in the case where the faithful do not attend Mass in the church on the prescribed days? And the same Sacred Congregation, upon the report of the undersigned Secretary, and after careful consideration of the opinion of another of the Masters of the Sacred Ceremonies, judged it fitting to respond to these doubts as follows: To I. No; except, if they exist, for special and determined rights pertaining to parish churches. To II. Affirmative. And thus it responded and declared on June 17, 1892.

[SIGNATURE] CARD. ALOISI-MASELLA, PREFACE.

VINCENT NTJSSI, Secretary.

METEN. Doubts concerning the recitation of the Creed. By order of the Most Reverend Bishop of Meten, the present Editor of the Diocesan Calendar humbly submitted the following doubts to the Sacred Congregation of Rites for appropriate resolution, namely:

Doubt I. Has the custom of reciting the Creed been established on the Feast of the Invention of Saint Stephen, either in the Cathedral church, which is dedicated under the invocation of the same Saint, or in the entire Diocese, in which He is rightly venerated as Patron on December 26th? Can this custom be maintained? And, to the extent that it is asked negatively, it is requested that, considering the custom, the Creed may be recited on August 3rd throughout the entire Diocese.

Doubt II. Whether the votive Mass of the Most Sacred Heart of Jesus, granted by Decree of June 28, 1889, for that Saturday which occurs first in the month, should be considered as a votive Mass for a grave matter, even if said without singing, especially considering the dignity of the feasts on which this Mass is permitted; or rather, should it be considered as a private votive Mass without the Gloria and without the Creed, with all the Collects prescribed by the Rubric? And the same Sacred Congregation, upon the report of the undersigned Secretary, and after careful consideration of the opinion of another of the Masters of the Sacred Ceremonies, judged it fitting to respond to the proposed doubts as follows: Acts, Vol. XXV, page 8.

[*Latin ed. p. 114*]

114 FROM THE SACRED CONGREGATION OF RITES. To His Eminence, for the sake of the matter. I. Concerning the matter, having received the words with the Most Holy Father. II. Let the recent Decree concerning the matter be given in one volume, from the Archives of the Holy See,

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May 20, 1890 (1). And thus it was decreed on May 20, 1892. Afterwards, having received a report from the undersigned Secretary concerning the first doubt, His Holiness, Pope Leo XIII, deigned to benignly approve the resolution of the Sacred Congregation itself. June 22, in the same year. * HIS EMINENCE, CARDINAL ALOISI-MASELLA, PREFACE OF THE SACRED CONGREGATION. REVEREND FATHER VINCENT NUSSI, SECRETARY. LAUDEN. Doubts concerning sacred vestments, portable altars, and other matters. The Reverend Lord, John Baptist Rota, Bishop of Lauden, having observed during his pastoral visitation that in many churches within the diocese entrusted to him, sacred vestments and furnishings are used which do not conform to liturgical laws, which, indeed, are not easily replaced throughout due to financial constraints; he humbly submitted the following doubts to the Sacred Congregation of Rites for a suitable resolution, namely: Doubt I. Whether sacred vestments made of wool can be used, provided that it is forbidden to purchase them in the future? Doubt II. Can old white albs, embroidered with cotton, be permitted until they are worn out? Doubt III. In rural chapels and churches, which have a small income, can silk planet cloths of a yellow color be used, as previously? Doubt IV. In this diocese, there exist many portable altars, commonly called "sacred stones," whose covering is made of metal. The question is asked whether such altars have lost their consecration? Doubt V. Can ancient reliquaries containing relics, which lack an authentic document, formerly belonging to suppressed monasteries, be displayed on the altar, as has been done from time immemorial? Doubt VI. The Decree in question, in the first doubt, asks: "Should the votive Mass of the Most Sacred Heart of Jesus be celebrated without the Gloria, without the Creed, etc., with three prayers, or is it celebrated as a solemn Mass with the Gloria and the Creed and a single prayer?" The answer is: "Negatively to the first part, affirmatively to the second part."

[*Latin ed. p. 115*]

From the regulations of the Sacred Congregation of Rites, number 115, concerning objects consecrated for common use, which, although lacking a reliquary, are kept hidden, for example, under marble tablets, as has been observed in two churches, where the altars were subsequently re-consecrated, must they be re-consecrated?

Question VII: Can a sufficient reason be given to allow parish priests to keep the Oil of the Sick within their own homes, since the parish church is separate from their dwelling; would this necessitate having servants open the doors of the house at night?

Question VIII: Is it permissible for parish priests to wear a stole over their cassock or over a surplice, but with a mantelletta (a long, sleeveless cloak), when administering the sacraments?

Question IX: Can canons of a cathedral church, wearing a large cope and

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stole, distribute the sacred hosts, or carry the paten, or offer the chalice, whenever the Bishop solemnly distributes the Most Holy Eucharist to the faithful?

And the Sacred Congregation, after careful consideration of the aforementioned questions, and upon the request of another of the Masters of the Sacred Ceremonies, decided to respond as follows:

To Question I: No, according to the decree of the Sacred Congregation of Rites, dated December 18, 1877.

To Question V: For the sake of expediency, until they are completed.

To Question III: No, according to the decree of the Sacred Congregation of Rites, dated September 22, 1837.

To Questions IV and V: No.

To Question VI: It is permitted, by virtue of the powers granted to the Sacred Congregation of Rites by the Most Holy Pope Leo XIII, to consecrate, using a shorter formula, only those altars of which it is certain that they have never been consecrated.

To Question VII: Adhere to the decree of the Sacred Congregation of Rites, dated August 31, 1872, in Toletana, number V (1).

To Questions VIII and IX: No.

And thus it responded, declared, and decreed.

June 23, 1892.

S. CAI. CARD. ALOISI-MASELLA, Prefect of the Sacred Congregation of Rites.

VINCENZO Nussi, Secretary of the Sacred Congregation of Rites.

(1) TOLETANA. Question V: Can parish priests keep the sacred Oil of the Sick in their own homes, even though they live outside the parish church, notwithstanding the decrees of the Sacred Congregation of Rites?

Answer V: No, and the decree of December 16, 1826, in Gandarensia, III, must be observed.

[*Latin ed. p. 116*]

116 FROM THE RITUALS OF NICOSIA. A Question Regarding the Recitation of the Office for the Dead in the Morning. In the Church, formerly a collegiate church, now a cathedral in Nicosia, there has been, from time immemorial, a custom of reciting the Office for the Dead in the evening on each second day of the week throughout the year. Now, a doubt has arisen among the chapter members as to whether they are obligated to observe this custom whenever a feast day of higher rank falls on a second day of the week, for example, the Nativity, the Epiphany of the Lord, or a feast of the first or second class. Therefore, the Most Reverend Bernard Cozzucli, the present Bishop of Nicosia, humbly submitted the following question to the Sacred Congregation of Rites for a suitable

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solution: "Given the long-standing custom of reciting the Office for the Dead each second day of the year, must it also be recited according to the rubrics, even when a feast day of precept, or of the first or second class, or an Octave of a privileged feast falls on one of those days?" And the Sacred Congregation, after careful deliberation, and with the expert opinion of one of the Masters of the Sacred Ceremonies, considered the matter and responded to the question as follows: "The custom of reciting the Office for the Dead in the evening on any second day of the year, even when a feast day of precept, or a feast of the first or second class, or a day within a privileged Octave occurs, may be observed, provided it is recited in a subdued voice, after the Office of the day has been completed." And thus it was decreed on July 22, 1892.

* CARDINAL ALOISI-MASELLA, PREFACE. JOHN PONZI, SUBSTITUTE. MEXICO. A Question Regarding the Placement of Statues in a Church. The present Master of Ceremonies of the collegiate church dedicated to the Most Blessed Virgin of Guadalupe in the city and Archdiocese of Mexico, at the mandate of his Most Reverend Ordinary, humbly submitted the following question to the Sacred Congregation of Rites for a suitable solution: "In the restoration of the aforementioned church, which is currently underway, a new main altar is being erected, where an image of the Most Blessed Virgin of Guadalupe will be placed, in the center between two marble statues, namely, those of the Most Reverend Zumarraga, the first Archbishop of Mexico, and of a certain John Didacus, to whom the Virgin Mary..."

[*Latin ed. p. 117*]

From the Sacred Congregation of Rites, number 117, it is reported that the following matter has come to light. The question is asked whether the aforementioned statues of men may be placed there, even if they resemble those of adorers. And the Sacred Congregation itself, after mature deliberation, judged it fitting to respond to the proposed question, namely: "Can images of which we speak be placed in the Church, provided that they are not placed upon the altar?" And thus it responded on July 15, 1892. & GAI. CARD. ALOISI-MASELLA, Prefect; IOANN. PONZI, Substitute. Regarding a question concerning the singing of Kyrie, Gloria, Credo, and Sanctus. The Most Reverend Vincent Addessi, Bishop of Dianen, humbly requested that the following question be declared by the Sacred Congregation of Rites: "For many years, in the Cathedral Church of Dianen, a custom has been introduced whereby the Canons and Mansionaries attached to the choir, both in Conventual Masses and even in Pontifical Masses, neither sing nor recite in a subdued voice the Kyrie, Gloria, Credo, Sanctus, and Agnus; but these things are permitted to be performed by a single layperson who plays the organ. The question is asked whether this custom can be maintained, or rather, whether it should be eliminated as an

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abuse?" And the Sacred Congregation itself judged it fitting to respond to this question: "It is to be maintained in all things according to the Ceremonial of Bishops." And thus it declared and responded on July 22, 1892. & CARD. ALOISI-MASELLA, Prefect; IOANN. PONZI, Substitute. From the Sacred Congregation of the Holy Roman Inquisition, questions regarding the decree *Tametsi*. Most Blessed Father, The Ordinary of Argentinensis humbly prostrates himself before the feet of Your Holiness and seeks a solution to the following questions: I. Are the Protestants of the city of Colmar, who, at least since the year 1632, have their own temple, and who have never observed the Tridentine law, to be considered exempt from this law?

[*Latin ed. p. 118*]

H8 FROM THE SACRED CONGREGATION OF THE INQUISITION, 2nd. Since, in this Diocese, there are places where, over time, Protestants have established a distinct community: what period of time must elapse for the law of Trent to be considered applicable in such places, with regard to Protestants who have fallen into desuetude through non-observance? Thursday, July 6, 1892. In the general Congregation of the Sacred Roman Universal Inquisition, the Most Eminent and Reverend Cardinals, general inquisitors in matters of faith and morals, having considered the aforementioned doubts and the vote of the Reverend Consultors, ordered the following response: To the first question, which follows, namely: Are the Protestants of the city of Colmar to be considered exempt from the decrees of the Holy Council of Trent? Answer: According to what has been presented to the Apostolic See regarding this matter, affirmatively. To the second question, decided on Thursday, July 5, 1848, namely, regarding recourse in particular cases, and the intention is: that no period of time is sufficient for the law of Trent to be considered to have lost its binding force in any place simply through the non-observance of heretics. On Friday, July 7, 1892, the Reverend Father Assessor of the Sacred Office presented a report to His Most Holy Lordship, Leo, Pope, regarding these resolutions. His Most Holy Lordship, the aforementioned Pope, approved the resolutions. (L. S.) Signed: I. MANCINI, Secretary of the Sacred Roman and Universal Inquisition.

A doubt proposed to the Holy See: What is to be done with those Catholics who, according to the ancient custom of our Dioceses (i.e., those existing in Prussia), have been admitted to the Sacraments of Holy Communion, even though they have contracted marriage before a non-Catholic minister? The Sacred Congregation responded on May 18, 1892: Those who enter into marriage before a heretical minister incur censure. However, Ordinaries, by virtue of their quinquennial faculties, can absolve them, and can also delegate others to absolve them. Those who have, up to now, been absolved from such a fault without prior absolution from

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censures, are not to be disturbed, according to the foregoing.

[*Latin ed. p. 119*]

119 APPENDIX L EXHIBITING THE ACTS OF THE APOSTOLIC SEE; WHICH EITHER HAVE BEEN PUBLISHED FOR A LONG TIME, OR WHICH HAVE RECENTLY COME TO THE ATTENTION OF THE EDITOR OF THE CHRONICLE.

Instruction of the Holy See concerning the Third Order of Women, and their privileges. Having learned, through long experience, that the Most Reverend Fathers have, with great sorrow, observed that disputes arise daily between the Ordinary pastors and the Superiors of the Regular Orders concerning the Third Order, and concerning their exemptions and rights, especially because the Constitutions of the Popes on this matter are not sufficiently known, and because the privileges granted to the Third Order by the Apostolic See are not properly understood: so that this evil may not continue, especially in mission territories, where it is most important to preserve the bond of peace and harmony between the secular and regular clergy, in order to avoid the scandal of the faithful, the blasphemies of the infidels, and the calumnies of heretics and schismatics, the same Most Reverend Fathers, in a General Congregation held on August 2, 1762, decreed that an instruction should be prepared, in which a summary of the ancient decrees should be set forth, and a rule that should be observed by all in cases that arise.

For the execution of this decree, in order that things may proceed in an orderly manner, it must first be understood that this concerns only those women who are not of the Latin rite; for it is not permitted for missionaries of any Order or Institute to admit such women to the habit of the Third Order; indeed, and even if any such women have been admitted by these missionaries, it must be ensured that they relinquish the habit they have received as soon as possible, under penalties to be determined by the Apostolic See, as the Holy Congregation declared in a decree issued in the General Congregation on May 9, 1757, and approved by the Most Holy Memory of Pope Benedict XIV, as follows:

"NOTICE. It often happens that acts of the Apostolic See of great utility reach our hands, either after a long time, or recently; which, however, have previously been entirely unknown to us. So that our readers may not be deprived of this benefit, we have decided to include these acts in small appendices, when they come to our knowledge, noting by which Holy Congregation the Roman Pontiff has promulgated them."

[*Latin ed. p. 120*]

120 APPENDIX I. To the Most Reverend Cardinal Tamburino, the following letter was sent by the Reverend Father, the Patriarch of the Armenian Catholics of Cilicia, in which he inquired whether Fathers in the

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Holy Land had admitted Armenian women to the habit of the Third Order, and whether these women were wearing clothing unusual for that region, and whether other things were being done in their presence that gave rise to grave evils, scandals, and inconveniences; therefore, he requested that some appropriate measure be taken. After mature deliberation, the Fathers considered it necessary to consult with His Holiness, so that he might instruct the Fathers of the Holy Land, and other religious men of whatever Order and Institute, not to admit women of any Eastern rite to the habit of the Third Order, or to any other similar habit; and that those who have already received the habit should, as soon as possible, lay it aside, and take care to use the common clothing of the region in which they live, under penalties pleasing to His Holiness.

"After the Reverend Father Nicholas Antonelli, Secretary to His Holiness, had given an account of all the above matters in an audience with Our Holy Father on the same day, His Holiness approved the judgment of the Sacred Congregation in all respects, and ordered that it be observed under penalty of deprivation of active and passive voice, notwithstanding the Apostolic Constitutions, statutes, customs, and other provisions confirmed by Apostolic authority, which are to the contrary. Given in Rome on the day and year above mentioned."

Therefore, since the ability of women of a single Latin rite to belong to Regular communities is understood, it is fitting to refer professed women of the Third Order to two classes: one, those who live together collegially; the other, those who live separately in their own homes. As for the former, it has been discovered that even those who have made a simple vow of chastity do not enjoy the privileges of the Third Order, unless they have taken solemn vows, and unless they maintain the enclosure piously. Although such privileges were formerly enjoyed under the force of the Constitutions of Leo X, one of which begins with the words "Dum intra," and the other with "Nuper," nevertheless, these privileges were expressly revoked by the Most Holy Pope Pius V, in the Constitution which begins with the words "Cura Pastoralis Officii," in which it is expressly stated that it is not permissible for Tertiaries who have not taken solemn vows, and who are not subject to the law of enclosure, to live collegially. This was also clearly confirmed by Gregory XIII in the Constitution which begins with the words "Deo sacris Virginibus."

It must be admitted, however, that there have been, and still are, certain institutions where Tertiaries live collegially, even if they have not taken solemn vows, nor are they subject to the law of enclosure; but since these are tolerated, not approved, by the Apostolic See, they cannot be considered canonically erected religious houses, but rather as dwellings founded

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contrary to the mind of the Apostolic See, and contrary to the will of God.

[*Latin ed. p. 121*]

APPENDIX I. The decrees of the Popes Pius V and Gregory XIII necessitate that monasteries of the Third Order, and therefore those lacking certain privileges which are proper only to enclosed monasteries, must entirely lack such things. How could they enjoy the indulgences and graces of the Apostolic See, when, without enclosure and solemn vows, they nevertheless live collegially, contrary to the mind of the same Apostolic See? Therefore, such Third Order members must remain integrally and solidly subject to the jurisdiction of the Ordinary. This has been demonstrated up to this point according to the consensus of all Doctors, most clearly by the blessed memory of Benedict XIV in *Institutiones Canonicae*, 105, number 76, and by the constant pronouncements of the Sacred Congregations of the City, of which two decrees, concerning matters not dissimilar, will not be difficult to produce. The first is from the Sacred Congregation of the Council, in Laudon, on May 27, 1677, in which case, when the matter was being considered of certain women of the town of Cottonei who were making certain simple vows of chastity, poverty, and obedience, without solemnity and without enclosure, the following question was proposed: "Are such women subject to the visitation and correction of the Bishop?" The Sacred Congregation, after hearing the Procurator General of the Fathers of the Order of Saint Francis, under whose care these women lived, decided that the answer should be: "Affirmative." The second is from the Sacred Congregation of the Council, in Lünen, Sarzanen, on January 30, 1723, in which case, when the matter was being discussed of women who, having adopted the habit of the Third Order of Saint Francis, lived collegially in a *Conservatorio* [institution], the Sacred Congregation decreed as follows: "That *Conservatories* are subject to all jurisdiction of the Bishop, except with the approval of the Sacred Congregation concerning said *Conservatories*." In this decree, at the same time and place where these women are declared subject to all jurisdiction of the Bishop, it is most carefully stated, with the words "except with the approval of the Sacred Congregation," so that the intention of the Sacred Congregation is clearly distinct from approving such colleges without solemn vows and without the law of enclosure. This discipline was somewhat altered by Benedict XIII, with certain Constitutions published, namely, that which begins with *Paterna*, another which begins with *Exponi nobis*, and a third, finally, which begins with *Pretiosus*, by which disposition, Third Order members who lived collegially without solemn vows and without the law of enclosure, were removed from the jurisdiction of the Bishops, and returned to the jurisdiction and care of the Superiors of the Order. But scarcely had the praised Pontiff departed, when his Successor, Clement XI, with a Constitution which begins with *Romanus Pontifex*, again abolished such graces and privileges, and

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restored the former discipline concerning Third Order members subject to the Ordinary; in which, it is expressly stated: "We decree and ordain..."

[*Latin ed. p. 122*]

122 APPENDIX I. To all, and to each of the aforementioned Letters and Constitutions, which were issued by Our predecessor, Benedict, and also concerning all the privileges, graces, favors, indulgences, exemptions, faculties, and declarations contained therein, We hereby declare that this decision and judgment shall be held henceforth, even in the forum of conscience, as if those same Letters and declarations had not been granted by the aforementioned Benedict; to which disposition, and to its former state, and term, We entirely reduce and We wish to have reduced everything previously stated; so that in the future, the aforementioned Orders should understand that the rules of those same Letters and Constitutions are entirely devoid of use, benefit, and effect." From these very words, Benedict XIV, in Inst. Can. 105, n. 76, concludes: "The jurisdiction of the Orders reverts to its former state, concerning those living collegially among the Tertiaries, without solemn vows, and without the law of enclosure; and for this reason, We have freely visited them, as being subject to Us." It has now been determined, concerning the other class of Tertiaries who live separately in their own houses, that they were formerly granted greater privileges, among which the following are the most important: 1. The privilege of the forum, which, however, does not apply in mission territories, where religion is scarcely tolerated; 2. That it was permitted for the members of that Order to confess their sins in the sacrament of Penance to the Fathers of that Order, even though they were not approved by the Ordinary; 3. That those who received the Paschal Communion in the church of those Regular Canons fulfilled the precept of the Church; 4. That they could also receive the Eucharist, and Extreme Unction at the end of life, from those same Religious. However, all of these things have been entirely abolished, and reduced to the terms of common law, by successive Popes, and by the Sacred Congregations of Cardinals, through numerous constitutions and decrees, as Fagnanus widely states in Chapter "Omnis," n. 64, concerning Penance, and as is reported from Rheims, from a decree of the Sacred Congregation, in these words: "Since the Brothers of the Monastery of St. Dominic in Lugo, in the Diocese of Imola, had requested that it be declared whether it was permitted to them, especially by virtue of their privileges, to hear the confessions of men and women who are members of the Third Order of St. Dominic, and to administer to them the Sacrament of the Eucharist at Easter, to offer them the Eucharist, and to administer Extreme Unction, the Sacred Congregation considered, presupposing that such members are considered to be under the same law as other members of the Third Order of St. Francis, of whom mention is made in the gloss, in "Glem." Since, from that sentence concerning excommunication, they are not considered to be

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a religion, or a certain way of living approved by the Apostolic See, nor are they fully transferred to..."

[*Latin ed. p. 123*]

APPENDIX I. 123 "Let them be so ordered that they may cease to be of the world" (Cardinal in Clementine Decretals, Letter No. 9 concerning Prebends). Since this is the case, these, no more than others of the secular clergy, can hear the confessions of the aforementioned Religious, according to chapter 15 of session 23, where all privileges are derogated, and a greater derogation is found in the Bull of Pius IV revoking all privileges under whatever formulas, in those which are contrary to the Holy Council of Trent. From this it follows that such Religious are not proper priests of these professors; and therefore, they cannot administer to them the Sacrament of Penance, or of the Eucharist at Easter, according to Chapter "Concerning all of either sex concerning penance and remission." The same applies to the Viaticum, provided that it is to be given after a prior confession (Canon 7 concerning the preparations to be used, session 13 in the Decree concerning the Sacrament of the Most Holy Eucharist). Concerning Extreme Unction, it is not a judgment of the Congregation, but rather it is understood that its administration, like that of other Sacraments, pertains to the parish priest, of whose parish these Religious are said to be, unless they are specially exempt. More broadly, Benedict XIV, from the Constitutions of the Popes among themselves, and from the Decrees of the Holy Congregation, derives (Institutes of Canon Law, 105, n. 67, and following) these words: "If the Constitution of Leo X obtains in its entirety and in its entirety, these Tertiary women living privately should be entirely immune from the jurisdiction of the Bishop; they should be able to choose confessors who are suited to hear the confessions of nuns, but not those of the secular; they would not be obliged to attend the parish, in order to fulfill the Easter precept; finally, they would have the right to receive Extreme Unction from their Regular superiors, and to be buried after death in the church of their Order; but the matter is otherwise: for the Constitution of Leo X has been restricted by certain limits by the Supreme Pontiffs who subsequently held the Apostolic See. Since these women are truly not Regular, because they are not bound by three solemn vows, therefore they are not considered in any way exempt from the authority of the Bishop...." Furthermore, concerning these Tertiary women, the Holy Congregation decrees: "The Holy Congregation of Cardinals of the Council of Trent has often responded that Regular priests cannot, in any way, hear the sacramental confessions of women of the Third Order, whom they call 'Pinzocheras,' unless they have been approved by the Ordinary to hear the confessions of lay people, nor can they administer to them the Holy Sacrament of the Eucharist on the day of the Resurrection of the Most Holy Lord Jesus Christ. Also, from a letter of the Holy Congregation for the causes of Bishops and Regulars, constituted

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to the Bishop of Modena on June 17, 1639, the following is established concerning these Tertiary women: Concerning a Tertiary, similar to..."

[*Latin ed. p. 124*]

124 APPENDIX I. Some held (namely, the Cardinals of the Holy Congregation) that it had not been permitted to the Brothers of the same monastery to administer themselves the Sacrament of the Divine Eucharist and Extreme Unction, nor to carry the body of the deceased to the house, with a funeral procession, without the parish priest or without his permission. For these matters truly belong to the parish priests, who ought diligently, and especially at this time, to know, to assist, and with careful study to instruct the faithful entrusted to them. Furthermore, "the Tertiary, although called by vows, was not bound to the cloister, but lived in her own home within the parish of that priest." However, their bodies may be buried in the churches of their Order, if a place is designated separately for the Tertiaries; otherwise, they are to be buried in the parish church, as are the bodies of others. They also gain indulgences and enjoy other spiritual graces pertaining to the Order to which they belong, immediately upon being admitted to the habit of the Third Order, and to the vow of simple chastity, by Regular Superiors, to whom this faculty has been reserved by an Indult of the Apostolic See. However, this faculty does not extend to all women, but only to those who possess the conditions properly prescribed by the Holy Congregations, namely: that they shine with honest and virtuous conduct; that they have reached at least the age of forty; that they possess the necessary goods for the proper support of life; and that they live only with blood relatives or affine in the first degree. The examination and judgment of these conditions do not belong to the Regular Superiors themselves, but to the local Ordinaries, as the Supreme Pontiffs have decreed, so that, as rightly stated by Benedict XIV in the aforementioned place, "Therefore, if something proper is assigned to each, it pertains to the Regular Prefect to bestow the religious habit upon these women; but it pertains to the Bishop to grant the faculty, and to carefully examine the prescribed conditions." All of these things, which are accurately reported by Benedict XIV, cited from *Inst. can. 105, Sacr. Congreg.*, are most clearly confirmed by a Decree issued by the Holy Congregation for Bishops and Regulars, dated December 20, 1616; thus, § 5: "Furthermore, if any of the aforementioned Tertiaries should die without having chosen a burial place, those dying in this manner must be buried in the church of the Order to which they have assumed the habit, if a common burial place is found in that Order; otherwise, it is decreed that they must be buried in the parish churches; but the Regular Superiors, to whom sufficient faculty has been granted by the Holy Apostolic See for this purpose (except for the Capuchins), are freely permitted to receive women into this habit, and it pertains to them to clothe them; but it does

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not pertain to them to admit and receive them, unless they have a proven life and good morals."

[*Latin ed. p. 125*]

APPENDIX I. 125 women, and those who have reached at least the age of forty years, who possess property from which they can sufficiently support themselves, and who do not cohabit with any men other than blood relatives, or those related by affinity only in the first degree, and who have previously obtained permission from the Ordinary of the place, who will not grant such permission unless he has carefully ascertained the aforementioned facts. All of these things were again confirmed by the General Council: for when the Bishop of Mazara inquired in 1727: "What are the conditions required, so that Religious who have the power to grant the habit of their Religion to women not living in community, may be able to grant such a habit?" and: "Does the examination of these powers pertain to the Bishop?" The Sacred Congregation of the Council responded: "The examination of the power to grant the habit pertains to the Apostolic See; the examination of the conditions regarding the clothing to be worn, and the permission to wear it, pertain to the Ordinary, and the conditions for wearing the clothing must be expressly stated in decrees generally issued, and these decrees must be strictly observed." In accordance with this decree, Bishops have customarily used the following formula, by which they testify that they grant a woman the permission to assume the habit of the Third Order. "To our beloved N. in Christ, greetings and blessings in the Lord. Since you, imbued with good morals, and of good character, and living a commendable life, have reached the age of forty years, and possess your own property, from the fruits of which you can live honorably, and you do not cohabit with any men other than blood relatives, or those related by affinity only in the first degree, as all of these things have been brought to our attention, we grant you, through the Reverend Father N. of the Order, the permission and faculty to receive the habit of the Third Order of St. N., which you have requested. In witness whereof, etc. Given, etc. N., Bishop." From all of the above, it follows that, as correctly stated by the Sacred Congregation for the Propagation of the Faith in a particular meeting held on August 31, 1761, in the form of a general decree to be observed throughout the Kingdom of Ireland, among other things, it is in no way permitted for Religious to admit anyone to the habit unless the aforementioned conditions are observed, and with the permission of the Ordinary; otherwise, those admitted are declared neither to be members of the Third Order, nor to enjoy any privileges or indulgences. Even if such a case may sometimes occur, in which it seems more expedient to protect a young woman by allowing her to assume the habit of the Third Order before the prescribed age, as a kind of protective covering, rather than leaving her defenseless among dangers: it does not follow that it is permissible for

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Superiors of Religious orders to do so without the permission of the Bishop.

[*Latin ed. p. 126*]

126 APPENDIX I. "Concerning the admission of girls to the habit: the Superiors, or Apostolic Vicars, should consult, in such cases, the local Ordinary, who will readily, according to his prudence and, indeed, his conscience, provide for the matter, considering the gravity of the danger. It is not always advisable to join the vow of chastity with the reception of the habit in young people, but rather to postpone it to a more suitable age; for from that age onward, the dangers and scandals that can arise are often less, especially when those involved are acting with more prudence than with fervent zeal. This has been decreed by the Sacred Congregation, so that dissensions and quarrels concerning these matters may be eliminated in the future, and that, with these matters settled, the unity of spirit and the bond of peace may be preserved among the workers in the Lord's vineyard. And so that the greatest authority, which has been left on earth by the Lord, may be strengthened, the Most Holy Pope Clement XIII, happily reigning, took care to have this read, considered, and approved; and the same Most Holy Pope confirmed all of this with Apostolic authority. The Sacred Congregation trusts that the Superiors of Religious Orders, following the norms of this Instruction, and the local Ordinaries and Apostolic Vicars, diligent in preserving the rights of others, will, with mutual consideration, form a bond of concord, so that those who are opposed may have nothing evil to say about them, and that the house of God, which is the Church, may be terrible in its very unity, like a well-ordered army, filling the faithful with joy, and the unfaithful, heretics, and schismatics with shame. This Instruction of the Sacred Congregation was presented to the Most Holy Pope Clement XIII by the Secretary of the same Sacred Congregation, and in an audience held on January 16, 1763, His Holiness graciously approved it in all respects, and ordered that it be observed completely. Sacred Congregation of the Propagation of the Faith, December 10, 1838. Concerning Latin missionaries with regard to the confession of Eastern nuns. Whether Latin missionaries can, without special permission from the Eastern Ordinaries, hear the confessions of Eastern nuns. R. No, and the Constitution of Gregory XV, *Inscrutabili*, must be observed (1). (1) In the Constitution *Inscrutabili Dei providentia*, February 5, 1522, the following is stated: "...Furthermore, confessors, whether regular or secular, in any way exempt, both ordinary and extraordinary, are not to be appointed to hear the confessions of nuns, even those subject to religious orders, unless they have first been judged suitable by the diocesan bishop, and have obtained an approval, which is to be granted freely."

[*Latin ed. p. 127*]

APPENDIX I. 127 From a letter of the Sacred Congregation of the Propa-

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gation of the Faith, dated November 16, 1870 (addressed to the Archbishop of Utrecht), concerning the admission of boys into the schools of Religious Sisters. Since a priest, serving as a parish priest in this diocese, indicated in a letter dated in the waning month of May that it would be beneficial if older boys could be admitted into the schools of the Sisters, and since these letters have been submitted for examination by the Sacred Congregation, the same Sacred Congregation has decreed that the Ordinary should be permitted to allow the admission of boys up to the age of twelve, completed years, but in separate dormitories and in those places where there is a necessity or evident benefit.

From a letter of the Sacred Congregation of the Propagation of the Faith, dated February 20, 1877 (addressed to the Apostolic Vicar of Egypt), concerning the changing of confessors. Regarding the doubt concerning the confessor of the Religious Sisters who direct schools or assist in the hospital, it seems that it should be considered that if these Sisters live in a community and have a special confessor, this confessor is subject to the general rules, and he must be approved every three years. But if these Sisters confess in the public church, or from the parish priest, if he is the only priest residing in the place, or from another confessor, since it cannot strictly be said that one or the other is the ordinary confessor of the community, therefore, no deputation or confirmation is required for him.

Regarding the doubt concerning the confessors of the Sisters who direct schools or serve in the hospital, it seems that it can be held that if these Sisters live in a community and have a special confessor, he is subject to the same general rules and must be approved every three years. But if these Sisters make their confession in the public church, or with the parish priest, if he is the only priest residing in the place, or with another confessor, since it cannot strictly be said that one or the other is the ordinary confessor of the community, therefore, no deputation or confirmation is required for him.

Decree of the Sacred Congregation of the Council, September 2, 1617 – Concerning Religious Sisters and confessors.

1. Can the Archpriest of the Cathedral, to whom the care of souls pertains, be the ordinary confessor of the Religious Sisters?

2. Can the Bishop deny to the Religious Sisters, who request it, an extraordinary confessor two or three times in the year?

[*Latin ed. p. 128*]

128 APPENDIX I. 3. Whether confessors may remain in their office for more than three years, and indeed for a long time? 4. Whether the confessionals of nuns may be located in sacristies, or in the houses which the confessors inhabit?

R. To 1. They cannot, but an indulgence may be granted. To 2. They can-

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not, indeed, they must be removed. To 3. They must be changed every three years. To 4. They cannot, but they may exist in the churches of monasteries.

S. C. [Sacra Congregatio] Indult. [Indulgences] November 18, 1842 – Doubts concerning the erection of confraternities in various dioceses of Gaul, and especially in the diocese of Caen. Many confraternities of the Most Holy Rosary, of the Blessed Virgin Mary of Mount Carmel, and of the Most Sacred Heart of Jesus exist. These confraternities, by special permission of the Holy See, have been erected by the bishops with a brief formula; the names of the brothers and sisters are inscribed in the particular registers, but are not sent to the Director of the Archconfraternity, nor are administrators chosen for each confraternity. The Bishop of Caen, wishing to alleviate or dispel all anxieties of the faithful, asks the S. C. 1. Whether any specific formula is necessary, under penalty of nullity? 2. Whether it is necessary, under the same penalty, that administrators be chosen? 3. Whether the Bishop can designate the Director of each confraternity in his diocese, whether already existing, or erected by himself by special Apostolic authority? 4. Whether the Director so designated by the Bishop can, by that very designation, bless and bestow the rosary with the application of indulgences, and the scapular?

R. To 1. Negatively, because the formula is prescribed only for the erection of sodalities to be carried out by religious orders. To 2. Negatively, because the election of administrators will be only for the good order of the sodalities, and is not at all necessary for the validity of the erection. To 3. Affirmatively. To 4. Negatively, unless in such concessions, the power to bless rosaries, crowns, and scapulars has been granted to the Rector for the time being.

[*Latin ed. p. 129*]

129 APPENDIX I. S. C. Concilii, 24 Februarii, 1872. – De monialibus humanis. S. C. Concilii, sub die 24 Ianuarii, 1846, statuit posse Regularibus, cum stola et cruce, Conventum et sine parocho interventu, deferre ad coemeterium commune cadaver Regularis defuncti, quod lege civili obstante, nequit in conventu sepeliri, modo id fiat absque solenni pompa, et defunctus recto tramite deferatur ad coemeterium. Quaeritur itaque an huiusmodi decretum extendi queat etiam ad moniales Ordinariorum dioecesum iurisdictioni subiectas, ita ut ipsarum cadavera possint absque parocho interventu ab ordinariis monasteriorum capellanis afferi, moderato funere, ad commune coemeterium. R. Affirmative, dummodo cadaver deferatur cum stola et cruce, sed absque pompa et recto tramite ad coemeterium. S. C. Indulgentiarum, 26 Ianuarii, 1871. – Dubia quoad impositionem scapularium. Cum S. C. de Prop. Fide soleat aliquando concedere missionariis facultatem benedicendi et imponendi christifidelibus scapularia, nonnulla oborta sunt dubia, quae dictae S. Congregationi ab Episcopis et missionariis proposita, et ab eadem ad hanc

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S. C. Indulg. transmissa fuerunt, nempe: 1. Utrum sacerdos, qui a S. Sede obtinuerit facultatem benedicendi scapularia, habeat eo ipso facultatem ea imponendi christifidelibus, et eosdem adscribendi Confraternitatibus a S. S. approbatis? 2. Utrum necessaria sit praevia erectio canonica talium Confraternitatum ex parte Ordinarii loci, ut qui habent a S. Sede facultatem adscribendi dictis Confraternitatibus, possint christifideles eisdem adscribere? Quibus vigore specialium facultatum a S. S. D. N. Pio PP. IX trib utarum, S. Congregatio Indulg., re sedulo diligenterque perpensa, respondendum censuit prout respondet: Ad 1. Affirmative, ita tamen ut sacerdotes qui praedictum indultum benedicendi scapularia ab Apostolica Sede legitime obtinuerint, penes se habeant privatum regestum, et quamprimum commode possunt, transmittere teneantur ad Superiores respectivae Sodalitatis vicini, canonice erectae, nomina receptorum, ut in album ipsius Sodalitatis referantur: Ad 2. Detur Instructio prout sequitur: INSTRUCTIO. – Ex piis Sodalitiis, quaedam sunt ab Apostolica Sede ita approbata, ut christifideles ubique locorum eisdem, ab iis qui lecta, Tom. XXV. fase. CCXCI. 9

[*Latin ed. p. 130*]

130 APPENDIX I. certum privilegium habent, quod eis tribui potest, licet in respectivis dioecesibus eorum fidelium non inveniantur, ut exempli gratia, sunt Confraternitates Scapularis B. V. M. Montis Carmeli, Rosarii, Septem Dolorum; et propterea, quoad has sodalitates, nulla requiritur in dioecesi praevia erectio a Episcopo. Quod si agatur de Confraternitate approbata a S. Sede pro determinato territorio, non requiritur praevia erectio a Episcopo, sed sacerdos qui Apostolicam facultatem habet adscribendi, non potest ea uti, nisi in eodem territorio in quo circumscripta est ipsa pia sodalitas. Pariter non requiritur praevia erectio a Episcopo, si pia sodalitas legitime erecta invenitur in dioecesi a Superioribus Regularibus qui ad hoc speciale privilegium habent ex concessione Apostolicae Sedis, dummodo in erectione servaverint conditiones in Constitutione Clementis VIII, incip. Quaecumque. Quibus positis, apparet eos qui, ut supra, a S. Sede facultatem obtinuerint benedicendi scapularia et ea imponendi, et fidelium adscribendi, posse dicta facultate uti duntaxat quoad Confraternitates, scapulares habentes, et canonice erectas, prout superius explicatum est; et si in indulto apposita est clausula: de consensu vel licentia Ordinarii, illa cum aliis conditionibus a iure praescriptis omnino servanda erit. Ut autem qui praedictam facultatem habent satis instructi sint in benedicendis et imponendis scapularibus, communicentur resolutiones huius S. C. in Urbis et Cameracen, diei 18 Augusti 1868, quae sunt sequentis tenoris: URBIS. — Ex quo parva scapularia, quae fideles gestare solent, in sua origine et institutione aliud non sunt quam scapularia variis Ordini bus Religiosis propria, pro maiori commoditate fidelium ad parvam formam redacta, nata sunt dubia a R. P. Procuratore generali

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Congregationis SS. Redemptoris, S. Congregationi Indulg. et SS. Reliq. proposita solvenda, quae tam ad antiqua quam ad recentiora scapularia referuntur, scilicet: 1. Utrum ad scapularia conficienda necessario et exclusive adhibenda sit materia ex lana, velutrum sumi etiam possit cotone (cotton) aliave similis materia? Et quatenus affirmative ad primam partem, et negative ad secundam: 2. Utrum vox pannus, panniculus ab auctoribus communiter usurpata sumi debeat sensu stricto, i. e. de sola lanea textura proprie dicta (tessuto, tissu), velutrum etiam intelligi possit de lanae textura reticulata (vulgo lavoro di maglia, tricotage), et de quocumque laneo opere acu picto (ricamo, broderie), adhibito tamen semper colore praescripto?

[*Latin ed. p. 131*]

APPENDIX I. 131 3. Whether it is valid to have a scapular made of woolen cloth of the prescribed color, which has ornaments woven or embroidered upon it, also made of wool, but of different colors? 4. Whether it is valid to have a scapular made of woolen cloth of the prescribed color, which has ornaments not made of wool, e.g., of silk, silver, gold, etc.? 5. Until now, the general custom has been to make scapulars of an oblong, or at least square, shape. Now, however, in some regions, the custom is being introduced of making scapulars of a round or oval shape, or even of a many-sided shape. The question is asked whether a different shape, other than oblong or square, is an impediment to the validity of the scapular? 6. In many regions, a praiseworthy custom, approved by the Holy See, is practiced of wearing several scapulars together, which are different from each other; in this case, the pieces of cloth of the various scapulars are attached with only two cords, so that the pieces of cloth of each scapular hang both from the chest and from the shoulders. However, it often happens that these united scapulars are made in such a way that, instead of several pieces of cloth of different colors, only one piece of cloth is attached at each end of the cords, in which is visible an embroidered or stitched ornament of different colors, to signify the various different scapulars. The question is asked whether these different scapulars are valid?

R. To 1. Affirmative, to the first part; negative, to the second. To 2. Affirmative, to the first part; negative, to the second. To 3. Affirmative, provided that the ornaments are such that the prescribed color predominates. To 4. As in the preceding. To 5. Nothing should be changed. To 6. Negative. The Most Holy Father approved the resolution of the Sacred Congregation on August 18, 1868.

CAMERACENSIS. — It sometimes happens, especially during missionary expeditions, that when a priest, legitimately deputed for this purpose, bestows the scapular of the Blessed Virgin Mary of Mount Carmel or another scapular upon the faithful, the scapulars are lacking before the vows

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of all the faithful can be fulfilled; hence, the Superior of the house of the religious community of the Missionary Society of Mary, located in the city commonly called Tourcoing, in the Archdiocese of Cameracensis, humbly requests the Sacred Congregation to grant an Indulgence for the solution of the following doubts:

1. Whether one and the same scapular, once blessed, can validly be bestowed upon several people in turn, provided that the formula of reception or imposition is repeated for each?

2. Whether such a formula, commonly used in the act of imposition, is...?

[*Latin ed. p. 132*]

132 APPENDIX I. scapularium, 'it is essential that anyone be considered to have rightly received the scapular, and to have the right to the Indulgences granted to it; but can it be omitted, especially in cases of illness or other urgent circumstances, without the benefit of Indulgences? R. To the first question: Affirmative, but only if the first scapular, which one must initially wear, is blessed. To the second question: It is necessary to use the words that are substantial, according to the form of the Decree of this Holy Congregation of August 24, 1844, which reads as follows: Has the enrollment of the faithful into the Confraternity of the B. V. M. of Mount Carmel been validated, which is done by priests who have the faculty, but without observing the form described in the Ritual and Breviary of the Order of Carmelites? The Sacred Congregation responded: Affirmative, provided that the priests who have the faculty do not fail in the essential elements, namely, the blessing and the imposition of the habit, and the reception into the Confraternity. In the Most Holy See, August 18, 1868, the resolution of the Sacred Congregation was ratified. Instruction of the Sacred Congregation, Sacred Office, March 26, 1866. — Regarding mixed schools in Switzerland. Previously, a question concerning mixed schools, which are causing great harm to the Catholic faith throughout almost all of Switzerland, was presented to this Sacred Congregation, along with three proposed doubts, two of which can be applied to all: — 1. Is it permissible for priests, concerning the schools in question, to instruct Catholic students, either within the confines of the schools or elsewhere, by convening them to church, in order to impart specific teachings of the Christian faith, or to perform this function as chaplains (aumoniers)? 2. Is it permissible for parents to entrust their children to such schools? The third pertains to the inhabitants of the Canton of Jura: 3. Is it permissible for Catholics in the Canton of Jura to send a message to their legal representatives, by virtue of which it is forbidden for anyone to undertake the task of teaching in their public schools who does not profess the Catholic religion. As in all serious matters, this Sacred Congregation diligently inquired about the truth and the state of affairs from the Bishops, and carefully considered and deliberated on the matter. After these preliminaries, the matter was finally resolved on

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Thursday, January 17 of this year, 1866.

[*Latin ed. p. 133*]

APPENDIX I. 133 Furthermore, the principal and most important doubt which was considered second in importance was this: Whether it is permissible for parents to entrust their children to schools of this kind. On this matter, the Most Eminent Fathers vehemently deliberated, considering both the inherent danger and the reports they received from various Bishops. Therefore, they judged it necessary to make every effort to persuade all fathers of families that they could not do anything worse for their children, for their country, or for the entire Catholic cause, than to send their children into this extreme danger. For, the age of childhood, due to its very nature and simplicity, is entirely open to the seductions of wicked men, unless it is carefully guarded, and even more so if it is involved in matters in which it is necessary to engage in such schools. Indeed, the authority of teachers, which has the greatest influence on the minds of young people, naturally draws them to approve of everything they see and hear, so that their indifference towards religion, their own heretical errors, and their contempt for the Catholic religion are infected with a certain poison, extinguishing all warmth of piety and utterly corrupting them. To this deadly pestilence is added the contagion of heretical classmates, whose corrupt morals, their inflexibility in the doctrines instilled by their sect, and everything that vehemently stirs the minds of young people, must necessarily undermine and destroy any faith or principles that may remain in them, if anything remains intact or firm. These matters, the Eminent Fathers recognized, were of the greatest gravity, and even more so when they considered what the Bishops revealed to them, namely, that such schools were established with the intention of eradicating the Catholic religion from those regions; for, with such a purpose in mind, no industry, no deceit, and no opposing forces are spared in order to pervert the youth. And let no one persuade himself that schools which are separate from religion and are profane will be immune from this corruption. For, besides the scandals that arise in them from the lives and associations of heretics, whether teachers or students, it must be understood that in such schools, access to heretical teachers is opened in every way, so that they may opportunely and inappropriately circumvent the simplicity of youth, and lead them into snares, and the more unexpected and hidden these methods are, the more effective they are in destroying. Therefore, not only those subjects that are sacred, but also those that are profane, not only those that are metaphysical or ethical, but also those that are...

[*Latin ed. p. 134*]

134 APPENDIX I. It is beyond doubt that schools established for the teaching of philosophy or physics, or history, or the humanities, or lan-

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guages, or any other subject, are fraught with dangers and are to be avoided. Indeed, the Fathers knew this perfectly well; however, they also recognized that certain circumstances might compel one to attend such schools. This occurs when Catholics are oppressed by tyranny, and there is no way for them to attend their own, Catholic schools, nor do they have the means to do so; therefore, they are faced with the choice of either abandoning the studies necessary for the well-being of their families, or of abandoning the public system altogether, or of attending mixed schools. Nevertheless, although the Fathers could not absolutely and definitively condemn the attendance of mixed schools, but rather considered that the matter should be left to the prudent judgment of individual pastors and to religious conscience, it is nevertheless necessary to be seriously warned of two things, which all theologians point out when dealing with the proximate occasion of sin: first, that the Bishop should see to it that the alleged necessity is not feigned or truly nonexistent; second, that all possible remedies should be diligently employed by those to whom the matter pertains, in order to avert the danger of corruption. Regarding the first point, it should be noted that no necessity is created if one can send their children to purely Catholic schools, even if they are located in distant regions, without causing significant harm. Regarding the second point, it is necessary to emphasize the importance of complete, sincere, and harmonious agreement, whether between laypeople and the clergy, or between the lower clergy and the bishops, or among all, so that while the bishops, or those joined together, deliberate on the remedies to be employed in provincial synods, or while individual pastors instruct and strengthen their flocks, and while the highest authorities of the state, whether by themselves or through serious men, constantly and diligently strive to improve the order of things and to achieve fairer conditions, the lower clergy, and especially the parish priests, devote diligent effort to catechesis, and especially to the exposition of those truths of faith and morals that are most often attacked by unbelievers and heretics, and to warn the youth of the dangers involved, and to encourage them to frequent the Sacraments, to show piety towards the Blessed Virgin, and to hold firmly to the faith, and in all things to have a just and fervent desire to remove such offenses against religion and piety, of which mixed schools are certainly an example.

[*Latin ed. p. 135*]

APPENDIX I. 135. They, with prudence indeed, but persistently, say that, while individual parents, or those in their place, diligently watch over their children, and either themselves, or if they are not suitable, through others, question them about what they have heard, examine the books given to them, and if they find anything harmful in them, they provide antidotes; moreover, they completely avoid and prohibit familiarity and association with heretical students, and that, with all their combined and

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associated strength, they can more easily safeguard the well-being of the young, and avert all pestilence from their minds. Therefore, regarding the aforementioned doubt: "Is it permissible for parents to entrust their children to schools of this kind?" they answered: "Speaking generally, it is not permissible, but in particular cases, the judgment and conscience of the Ordinary must be consulted, to whom it will be the duty to diligently ensure that not only he himself and the parish priests, but also individual parents, employ appropriate remedies to remove the danger of perversion from the students, and also to strive with magistrates and officials, so that no force is used against the conscience of Catholics by introducing books that are offensive to the Catholic Religion, and finally, to constantly and urgently warn and exhort all, and especially those who have the means, to send their children to other places where they can be educated in the Catholic faith." From these considerations regarding this doubt, it becomes clear what the answer is to the other question that was initially proposed: "Is it permissible for priests to present the teachings of the Christian faith to Catholic students in these schools, either within their walls or elsewhere, as in the Church, when they are gathered for that purpose, or for chaplains (aumoniers) to perform any such duty?" For it is clear that the gravest and most extreme danger threatens the Catholic youth who are present in such schools, and therefore, no one should doubt that the Bishops, in their own proper role, should hasten to come to the aid of the flock in this extreme peril, and that priests called upon by them, and especially parish priests, should offer their help with all their zeal; how could it ever occur to anyone that those unfortunate young people, clinging to the jaws of death, could be neglected and abandoned? For if they had fallen into this state through their own fault, they would still be worthy of being rescued; but now, since they have been led into this state not through their own fault, but through the fault of others, how much more is it right that they should be taken up by priestly care? Moreover, the Most Eminent Fathers were not dissuaded by the objection of despair regarding the fruit, or by the hope that the abandonment of those who attend these schools would deter others from them, or by the fear of the appearance of scandal, lest the people think that, if the task of teaching in these schools is undertaken by priests, the schools will be approved by the Church, and can be freely and legitimately attended. For since we are dealing with an obligation inherent in the priestly office, it is clear that it does not...

[*Latin ed. p. 136*]

136 APPENDIX I. It must be feared that scandal may arise, which indeed would be pharisaical, but rather, this should be overlooked, nor should any good (for which evil deeds are not to be done) be sought from its violation, nor, finally, should one abandon it out of desperation, which it befits to entrust to divine Goodness. Those who are appointed as teachers to the

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house of Israel must, without fear, heed what the Lord warned through Ezekiel: "If they have not spoken to turn the wicked away from his way, that the wicked man may not be deceived by his iniquity, then I will require the blood of them; but if they have turned a wicked man from his way, then I will spare him, and I will not require the blood of him." Therefore, regarding the aforementioned question: "Is it permissible for a priest to impart instruction in the aforementioned schools of the Christian faith, or for a chaplain to perform his duties?" the matter was deemed worthy of consideration; "affirmative, and in accordance with the idea that not only should priests be appointed to teach the Christian faith, but also to other schools of disciplines as much as possible, and that honest laymen, well-versed in religion, should be involved; but in order that all fear of scandal may cease, it must be made known to the people that the evils that arise from such schools should be averted as much as possible; and therefore, no one should have an excuse for not sending their children to purely Catholic schools, in which their faith and morals are in no way endangered." There remains a third question, which pertains to the inhabitants of Monte Iura, who are subject to the Bernese republic, and which was presented as follows: "Even if such [mixed schools] can be tolerated, is it permissible for Catholics of Jura to communicate to their authorities, publicly bound by a treaty, that it is forbidden for anyone to perform the duty of teaching in their public schools who does not profess the Catholic religion?" To this question, the Fathers of Emi deemed it necessary to respond without hesitation: "negative, whether it be an express, or even a tacit cession through silence, and culpable tolerance." Therefore, although it is necessary to be careful not to do anything imprudently that might incite the ferocity of the adversaries to bring about more serious evils, nothing should be abandoned concerning *industria* and *constantia*, so that legitimate means, which are within the power of Catholics, are employed to recover the aforementioned right, together with the sanctity of the treaty and the integrity of the Catholic Religion. In this matter, the Fathers of Emi, whether concerning the zeal of the Bishop, to whose jurisdiction that region is subject, or of both orders, namely the clerical and lay orders, have no doubt, since they have outstanding monuments of the same, and therefore they do not cease to recommend that...

[*Latin ed. p. 137*]

APPENDIX I. 137. Let mutual concord be maintained above all things, for if it does not prevail, nothing can succeed happily. S. C. S. Office, February 14, 1704. — Prefect of Ethiopia. Concerning the use of the Holy Oils. Whether the missionary, not having the convenience of the new Holy Oils, may use the old ones, and for how long. Whether a missionary, who cannot have the benefit of the Holy Oils, may use the old oils, and for how long. Answer: After due inquiry, if the new oil is not available, the missionary

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may, by the privilege of Clement VIII, use the old oils for four years and beyond. S. C. de Propaganda Fide, C. G., February 18, 1783. Concerning the old Holy Oil with regard to the Sacraments. Whether the Vicar Apostolic may lawfully use the old Holy Oil for all the Sacraments, until the new one arrives from Constantinople. Answer: He may lawfully use the old Holy Oil for all the Sacraments, until the new one arrives from Constantinople. Answer: He may use the old Holy Oils as often as, after due diligence, he cannot receive newly consecrated oil from a Catholic Bishop, who is in communion with the Roman Church, during the Paschal season, and when the necessity of administering the Sacraments arises. From the Instruction of the S. C. de Prop. Fide, June 23, 1830 (to the Vicar Apostolic of Siam). Concerning the Sacrament of Baptism. If, in considering the Sacrament in a general sense (Baptism), three things are required for its validity, namely: matter, form, and the person of the minister, as taught by Eugene IV in the famous Instruction for the Armenians, in these words: "All the Sacraments are perfected by three things, namely: by things as matter, by words as form, and by the person of the minister; of which, if anything is lacking, the Sacrament is not perfected. Indeed, it is necessary that the minister apply the matter to the form, otherwise the Sacrament is not had." Therefore, Augustine, speaking of Baptism, said: "Take away the word, and what is water but equal?"

[*Latin ed. p. 138*]

138 APPENDIX I. [It is necessary that] both the matter and the form [be present] and thus it becomes a Sacrament. (Tractate 80 on John, no. 3, part 2). The matter and the form must be according to the divine institution of each Sacrament, and it is not permitted to deviate from this in those things which are of divine institution; therefore, a substantial change in the matter or the form would invalidate the Sacrament; however, it must be said that an accidental change, although illicit, would not render the Sacrament invalid. Regarding the minister, at least a general intention of doing what the Church does is required. Therefore, Martin V, in the Constitution which is found at the end of the Council of Coutances, in the year 1415, ordered that those who were suspected of heresy be asked: Do they believe that a wicked priest, with the proper matter and form, and with the intention of doing what the Church does, truly absolves, truly baptizes, and truly confers the other Sacraments? (Vol. 12, Council, p. 269). And the Council of Trent, against Luther, defined thus: If anyone says that in the ministers, while they administer the Sacraments, the intention of doing what the Church does is not required, let him be anathema. (Session 7, On the Sacraments in general, canon 11). Sacred Congregation of the Propagation of the Faith, September 27, 1835. Concerning the use of the old Oils. Since it sometimes happens that the Bishops and Apostolic Vicars in China and the adjacent kingdoms are pressed by difficulties, by which they are

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legitimately hindered from annually blessing the sacred Oils according to the sacred rites, the Most Holy [Pope Gregory XVI] confirms, perpetually, the indulgence previously granted in similar cases, that they may use the old Oils, and extends it to all the aforementioned Bishops and Apostolic Vicars.

[*Latin ed. p. 139*]

139. The Encyclical Letter of the Most Holy Pope Leo XIII, Concerning the Rosary of Mary. We are filled with great joy and delight whenever, as the occasion permits, we can stir up and increase in the Christian people the love and devotion to the great Mother of God, for this matter is not only supremely excellent in itself and fruitful in many ways, but also resonates most sweetly with the innermost feelings of Our heart. For the holy devotion to Mary, once almost as if nurtured with milk, has grown with age, becoming more ardent and stronger in Our soul, because it appeared to Our mind to be all the more worthy of love and honor, since God Himself first loved and cherished her, and loved her so much that He raised her above all things in the universe, adorned her with the highest gifts, and made her His Mother. And We remember, with great gratitude and even with tears, many and splendid testimonies of her goodness and beneficence towards Us, which have fostered and further inflamed this same devotion in Us. For through many and varied and formidable events, We have always fled to her, always looking to her with eager eyes; and We have entrusted to her all our hopes and fears, our joys and sorrows, and it has always been Our constant care to pray to her, that she, in the manner of a loving mother, may always be present to Us, and that We may obtain this great thing: to be able to prove to her, in turn, the most devoted filial love.

— When, by the secret providence of God, it happened that We were appointed to this Chair of the Blessed Peter, that is to say, to the very person of Christ in His Church, then indeed, deeply moved by the weight of this office, and supported by no confidence in Our own strength, We strive with the utmost zeal, relying on the help of divine grace, and with unwavering faith in the most blessed Virgin. And Our hope, as We have experienced in all of life, and especially in fulfilling this supreme apostolate, has never failed to bear fruit or bring relief. Therefore, this same hope now rises even higher in Us, to strive for greater and more important things, under her protection and guidance, which will contribute to the happy growth of the salvation of the Christian flock and the glory of the Church.

— Therefore, it is right and fitting, Venerable Brothers, that We should encourage all Our children, renewed by your exhortation.

[*Latin ed. p. 140*]

140 Let us employ letters, so that next October, Our Lady and Our Queen of Augsburg may strive to celebrate with a more vivid piety the feast of

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the Rosary, as the increasing necessities demand. It is now abundantly clear, and indeed widely evident, how many and what kinds of corruptions insidiously undermine the faith of the age, and how the observance of the divine law, which nourishes and moves the Christian faith to bear fruit, is weakened and utterly uprooted from the hearts of men. Moreover, what is even more distressing is that the wickedness is so arrogant and so harmful, and is so far from being restrained by imposed limits or just punishments from those who are most able and most obligated to do so, that it seems, on the contrary, to be frequently increased by the negligence or patronage of others. Therefore, we must lament the public institutions of learning and the arts, which are so devoted to works that despise or slander the name of God; we must lament the ever-increasing license with which anything can be published and proclaimed to the people, anything that is offensive to Christ, God, and the Church; and we must lament the resulting laxity and indifference in the Catholic profession, which, if it is not an open defect of faith, certainly tends towards it, since there is no longer any conformity between faith and the conduct of life. He who considers the confusion and the corruption of these things will not be surprised if nations widely groan under the weight of divine displeasure, and are anxious and fearful of more serious calamities. Indeed, to appease the wrath of God, and to offer that healing which is necessary for those who are suffering, nothing is more effective than the office of prayer, persevered in with piety, provided that it is joined with diligence and the actions of the Christian life; and in both these aspects, we believe that the Rosary of Mary is most fitting. From its very origin, which is sufficiently known and illustrated by illustrious monuments, and which we have mentioned more than once, its powerful influence is praised. For when the sect of the Albigenses, which, though appearing to be a defender of the integrity of faith and morals, was in reality a most pernicious and corrupting force, was a scourge to many nations, the Church fought against it and its licentious factions, not with armies or weapons, but primarily through the power of the most holy Rosary, whose practice the Virgin Mary herself gave to Saint Dominic to spread; and thus, victoriously in all respects, it brought salvation to its own, then through it, and then through...

[*Latin ed. p. 141*]

LETTERS 141, similar to these, have always advised against storms, with a result that is always glorious. Therefore, in this course of events and of men which we lament, so burdensome to religion, so pernicious to the republic, it is fitting that all, with equal piety, should commonly implore and beseech the Holy Mother of God, so that we may experience the same power of her Rosary, according to our wishes. For when we pray, we flee to Mary, to the Mother of Mercy, so devoted to us that, whatever necessity we may have, especially concerning the attainment of eternal life, she is

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always ready to help us, and without even being called, she freely bestows upon us that abundance of grace which was abundantly given to her from the beginning by God, a grace worthy of her being the Mother of God. This abundance of grace, which is most clearly proclaimed in the praises of many Virgins, far surpasses all other orders of men and angels, being closest to Christ, for it is a great thing in any saint to have so much grace that it suffices for the salvation of many; but if one had so much as to suffice for the salvation of all men in the world, that would be the greatest; and this is true of Christ and the Blessed Virgin (1). Therefore, when we greet her with this abundance of grace, and when we rightly connect this repeated praise with the crowns, it can scarcely be said how pleasing and desired it has been to us: for so often our memory is stirred up, both of her most exalted dignity, and of the beginning made by God through her of the redemption of the human race; and thus also is recalled the divine and perpetual necessity by which she is bound with the joys and sorrows, the reproaches and triumphs of Christ, in governing men and helping them towards eternity. If it has pleased Christ most graciously to bear such a resemblance to us; and to call Himself another, and indeed our brother, so that His mercy towards us might be made manifest, He ought, through all His brothers, to be similar, so that He might be merciful (2); and likewise, since Mary is the Mother of Christ, our Lord and our brother, she has received a singular gift above all mothers, so that she might pour forth her mercy upon us. Furthermore, just as we owe to Christ what He has communicated to us in some way, namely, the right to call Him Father, so likewise we owe to Him the lovingly communicated right to call Mary, and to have her as Mother. And since nature itself has made the name of mother so sweet, in (1) S. Th. (2) Heb. n, op. 17. VIII super salut. angelica.

[*Latin ed. p. 142*]

142 Letters, and these serve as an example of tender and provident love; indeed, language is scarcely sufficient to express it, but the hearts of the pious perceive how much benevolent and active charity burns within Mary, namely, she who is our Mother, not in a human sense, but by Christ. And she knows and understands far more of all our things, of those supports which we need for life, of those dangers which beset us publicly and privately, of those trials in which we are involved, especially the struggle against fierce enemies for the salvation of our souls: in these things, and in other hardships of life, she can, indeed, more readily and powerfully offer solace, strength, and every kind of help to her most beloved children. Therefore, let us approach Mary not timidly, not listlessly, but earnestly, imploring her through those maternal bonds by which she is most closely united with Jesus and with us; let us invoke her present help with the utmost devotion, as she herself has signified and has received; then, we shall deserve to find rest with the utmost security

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and joy in the protection of the best of mothers. To this commendation of the Rosary, which arises from the prayer itself, is added that it contains a certain easy means of suggesting and instilling the most important principles of Christian faith: and this is a most noble commendation. For it is most fitting that a man, through faith, makes the right and certain progress towards God, and learns to revere with his mind and soul the immense majesty, the dominion over all things, the supreme power, the wisdom, and the providence of that one God: For it is necessary to believe that he who approaches God believes that he is: and is a rewarder to them that seek him (1). Moreover, since the eternal Son of God assumed human nature, and has shone forth for us and is present as the way, the truth, and the life, therefore our faith must also necessarily include the sublime mysteries of the divine Persons of the Trinity, the august and unique Father made Man: "Now this is eternal life: That they may know thee, the only true God, and Jesus Christ, whom thou hast sent" (2). God has bestowed a great benefit upon us when He bestowed this holy faith; through this gift, we are not only raised above human things, as if made spectators and sharers of the divine nature, but we also have, moreover, a greater reason for the excellence of merit for heavenly rewards; therefore, our hope is nourished and strengthened, so that one day we may come to know God, not already through shadowy images of things, but in open light (1) Hebrews 11:6. (2) John 17:3.

[*Latin ed. p. 143*]

LETTER 143: Contemplate him and enjoy, in him, the ultimate and eternal good. But the Christian man is so beset by the cares of life and so easily drawn away to trivialities, that, unless he is aided by frequent admonitions, which are most important and necessary, he will slowly become forgetful, and for that reason his faith will weaken and even fail. The dangers of ignorance are so great that the Church forbids her children to neglect them; therefore, she does not omit any vigilance or diligence, nor does she fail to offer the ultimate aid to faith, which is to pray the Rosary of Mary. For in it, with a beautiful and fruitful prayer continued in a certain order, are recalled and contemplated the principal mysteries of our religion: first, those in which the Word became flesh, and Mary, the Virgin and Mother, rendered those sacred services to him with holy joy; then, the sufferings, torments, and punishment of the suffering Christ, through the price of which the salvation of our race was accomplished; then, the mysteries of his full glory, and his triumph over death, and his ascension into heaven, and the descent of the divine Spirit from above, and the brilliant splendor with which Mary was received among the stars; finally, the eternal glory of all the blessed, united with the glory of the Mother and the Son. This series of truly wonderful things is frequently and constantly brought to the minds of the faithful, and is almost presented before their eyes: which, for those

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who devoutly cherish the Rosary, pours new sweetness of piety into their souls, affecting and moving them as if they were hearing the very voice of the most merciful Mother, who opens up the mysteries and speaks many salutary things to them. Therefore, it will not seem too bold to say that, in those places, families, and nations where the ancient custom of honoring the Rosary of Mary is preserved, there is no fear of a decline in faith due to ignorance and pestilent errors. But another benefit, which the Church greatly seeks for her children through the Rosary, is this: that they may more diligently order their lives and manners according to the holy norm and prescriptions of faith. For, as all hold, the divine word says: "Faith without works is dead" (1). Since faith leads to life through charity, and charity produces the abundance of holy actions; therefore, a Christian man will gain no benefit from his faith, unless he directs his life according to it: "What does it profit, my brothers, if anyone says he has faith, but has no works?" (1) James 2:20.

[*Latin ed. p. 144*]

144. Non habetne epistolas? Numquid poterit fides salvare eum? (1) Hoc genus hominum, immo, incurret reprehensionem Christi iudicis multo graviorem, quam qui 'christianae fidei disciplinaeque sunt misere ignari; qui non, ut illi perperam, aliter credunt, aliter vivunt, verum quia carent Evangelii lumine, habent ideo quamdam excusationem aut minore sunt certe in noxa. — Quo igitur fides quam profitemur consentanea fructuum laetitia melius florescat, simul ex mysteriis ipsis quae mens considerando persequitur, ad virtutum proposita mire animus inflammatur. Opus nempe salutiferum Christi Domini, quale nobis eminet ac nitet in omnes partes exemplum! Magnus omnipotens Deus, urgente in nos nimia caritate, ad infimi hominis conditionem sese extenuat; nobiscum velut unus de multis versatur, amice colloquitur, singulos et turbam ad omnem erudit docetque iustitiam, excellens sermone magister, auctoritate Deus. Omnibus omnino se dat beneficium; e morbis corporum relevat languentes, morbisque animorum gravioribus paterna medetur miseratione : quos vel aerumna exercet vel sollicitudinum moles fatigat, eos in primis blandissime compellat et vocat: "Come to me all you that labor and are burdened, and I will refresh you" (2). Tum ipse interquiescentibus nobis in complexu suo, de illo spirat mystico igne quem ad homines detulit, deque sui mansuetudine animi ac submissione benigne insinuât, quarum usu virtutum nos optat verae solidaeque pacis, cuius est auctor, participes: "Take up my yoke upon you, and learn of me, because I am meek, and humble of heart: And you shall find rest to your souls" (3). Sed ipse tamen, pro ea sapientiae caelestis luce et insigni beneficiorum copia quibus homines demereri debuerat, hominum subit odia iniuriasque atrocissimas, atque sanguinem et spiritum cruci suffixus profundit, nihil spectans enixius quam ut illis pariat sua morte vitam. — Talia peramantis

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Redemptoris nostri monumenta carissima nequaquam fieri potest ut quispiam attenta secum cogitatione reputet et commentetur, neque grata adversus eum voluntate exardescat. At verius probatae vis fidei tantum efficiet ut, illuminata hominis mente et animo vehementer impulso, totum prope rapiat ad ipsius Christi vestigia per omne discrimen sectanda, ad eam usque Paulo dignam obtestationem: "Quis ergo fid."

(1) Matth. xi, 28.

(2) Matth. xi, 29.

[*Latin ed. p. 145*]

Litterae 145 will separate us from the charity of Christ? Is it tribulation, or anguish, or famine, or nakedness, or peril, or persecution, or the sword?… (1) But now I live, no longer I, but Christ lives in me (2). But let us not, through the consciousness of our own inherent weakness, fail to follow the most excellent examples that Christ, both God and man, sets forth for us; and, along with the mysteries of Him, we have the mysteries of the most holy Mother presented to our minds for contemplation. She is indeed born of the lineage of David, yet nothing remains to her of the wealth or grandeur of her ancestors; she lives a hidden life, in a humble town, in a humbler dwelling, content with the very seclusion and the simplicity of her family affairs, desiring all the more to lift up her soul to God and to cling to Him, the highest and most desired good. Yet she is with the Lord, and is filled and blessed by His grace; and she herself, having received the heavenly announcement, is designated as the one from whom, by the power of the Spirit of God, that Savior of the nations will be born in the flesh. The most exalted degree of dignity fills her with wonder, and she attributes it to the powerful and merciful God; the more she marvels at it, the more she humbles herself, conscious of no virtue in herself, and she readily proclaims and dedicates herself as the handmaid of God, and as His Mother. What the holy woman has promised, she readily and piously fulfills, already united with Jesus, her Son, in a communion of life, in joys and in tears. Thus, such a height of glory, that no other, neither man nor angel, will attain, because no one will be worthy to be associated with her in the merits of virtues; thus, she remains the crown of the heavenly and earthly kingdom, destined to be the invincible queen of martyrs; thus, in the celestial city of God, she will sit crowned forever with the Son, having shared with Him the chalice of sorrow, overflowing throughout all of life, and most steadfastly in Calvary. Behold, in Mary, God has established for us a truly excellent and provident example of all virtue; and by beholding her with our eyes and in our thoughts, let us not, as if struck by the brilliance of the divine power, despair, but, attracted by the common kinship of nature, let us strive more confidently to imitate her. If we dedicate ourselves entirely to this pursuit, with her help above all, it will surely be permissible for us to at least express some of the features of such virtue and holiness,

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and, referring to how wonderfully she maintained equality of life with all of God's plans, (1) Romans 8:3B. (2) Galatians 2:20. Acts, Temp. XXV. fase. CCXCI. 10

[*Latin ed. p. 146*]

146 These letters will, in themselves, lead us to Heaven. — Let us, therefore, persevere with courage and fortitude in this pilgrimage, which, although beset by many difficulties, we have undertaken; and let us not cease, amidst toil and hardship, to turn to Mary with supplication, uttering those words of the Church: "To you we look up, groaning and weeping in the valley of tears... turn your merciful eyes to us; grant us a pure life, prepare a safe path, that, seeing Jesus, we may always adore Him" (1). But she, who, although she herself suffered nothing, knows the weakness of our nature and the perversity of sin, and who is the best and most devoted of all mothers, will help us opportunely and abundantly, and will refresh us with charity and strengthen us with virtue! To those who travel this path, consecrated by the divine blood of Christ and the tears of Mary, the outcome will be certain, and the way to the blessed company of their glory will be made easy. Therefore, the Rosary of the Virgin Mary, which appropriately and usefully contains both an excellent form of prayer, and a suitable instrument for preserving faith, and a perfect example of virtue, is truly worthy to be frequently held in the hands of true Christians and devoutly recited and meditated upon. — We especially commend this to that Association, which we recently praised and rightly approved, called the Holy Family. Indeed, the mystery of Christ, which was long hidden in the silent walls of the house of Nazareth, provides a reason for this Association, so that Christian families may diligently strive to conform themselves to the example of the most holy family, divinely established; and thus, there is a particular connection between this Association and the Rosary, especially with regard to the mysteries of joy, since Jesus, after declaring His wisdom in the temple, went with Mary and Joseph to Nazareth and was subject to them, thereby illustrating the other mysteries that more closely effect the instruction and redemption of mankind. Therefore, let all members of the Association strive to be devoted cultivators of the Rosary and also diligent promoters of it. As for us, we confirm and ratify the sacred indulgences granted in previous years to those who duly observe the prescriptions during the month of October: but you, Venerable Brothers, are highly esteemed for your authority and prudence (1).

(1) *Ex sacr. liturg.* (From the Sacred Liturgy)

[*Latin ed. p. 147*]

We dedicate these [LITTERAE], so that the fervor of religion and the holy devotion to the Virgin, Help of Christians, may increase in Catholic lands, through the prayer of the Rosary. – But, from whence our exhorta-

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tion arose, may it continue to its end, again and more openly testifying to the affection we hold for the great Mother of God, filled with remembrance of benefits and the most joyous hope. We also implore, on behalf of the Christian people, who most piously supplicate at her altars, for the sake of the Church, so greatly shaken by adverse times and disturbances, and also for our own sake, who, in our advanced age, weakened by labors, and constrained by difficult circumstances, supported by no human aid, but solely by divine grace, govern the very helm of the Church. Indeed, in Mary, a powerful and benevolent Mother, our hope grows daily, and smiles more sweetly. To whose intercession we attribute so many and such excellent benefits received from God, we also attribute the overflowing grace that allows us to reach the fiftieth day of the anniversary from which we were consecrated in the episcopal order. This is a great thing, considering the long span of pastoral service, which we have devoted to the entire Christian flock, especially with daily solicitude. In this time, as is the life of men, and as are the mysteries of Christ and His Mother, there have been causes for joy and many others mixed with causes for sorrow, and also the rewards of glory offered in Christ; and all these things, with an equal mind and a grateful heart, we have endeavored to turn to the good and the adornment of the Church. Now, as the rest of life passes, whether new joys may arise or sorrows may befall, whether any adornments of glory may be added, with the same mind and the same spirit, steadfast, and desiring only the heavenly glory from God, we will rejoice with those words of David: "Let the name of the Lord be praised: for He is good; His mercy endureth for ever" (1). Indeed, from our children, in whom we see such pious and benevolent devotion towards us, we expect, rather than congratulations and praises, the greatest thanks, prayers, and vows to God the Most High; and we shall be most delighted if they can obtain this for us, that as much strength and life as remains, as much authority and grace as remains, may accrue to the benefit of the Church, especially in bringing back and reconciling those who have been offended and led astray, whom our voice has already invited.

(1) Psalm 111:2; 111:1.

[*Latin ed. p. 148*]

148 And let Letters, with the grace and joy granted to us by God, flow forth to our most beloved sons, bringing forth gifts of justice, peace, prosperity, holiness, and all good things: we implore this with paternal charity from God, and we express it in His words: "Hearken unto me... and be ye fruitful as the rose planted by the streams of waters: be ye as Lebanon, which smells sweet. Flourish ye as the lily of the field, and let your fragrance and fruitfulness be for grace, and praise the Lord in His works. Give glory to His name, and confess Him in the voice of your lips and in hymns and with harps... in every heart and with every mouth, praise and bless the

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name of the Lord" (1). Should these counsels and desires be frustrated by wicked men, who, knowing nothing, blaspheme, may God mercifully spare them; but may He, through the intercession of the most holy Queen of the Rosary, be propitious to you, take heart, Venerable Brothers, and receive this pledge of our benevolence, the Apostolic Blessing, which we impart with all our heart to each of you and to your clergy and people in the Lord. Given at Rome, near St. Peter, on the eighth day of September, in the year 1892, in the fifteenth year of Our Pontificate. LEO XIII, POPE.

(1) Ecclesiasticus xxxix, 17-20, 41.

[*Latin ed. p. 149*]

149 FROM THE HOLY CONGREGATION OF THE COUNCIL OF GRATIANOPOLIS REGARDING PAROCHIAL MATTERS, May 21, 1892. Session 24, Chapter 13, Concerning Reforms. SUMMARY OF THE FACTS. Since the first Consul, Bonaparte, by edictal letters of October 22, 1803, with the consent of ecclesiastical authority, ordered that a new delineation of all the parishes of Galliae be determined, the Bishop of Gratianopolis, by decree of April 28, 1804, also designated the boundaries of each parish within his Diocese, whether urban or rural. At that time, the parish of Saint Louis comprised the northern part of the city, extending "up to the gate of Graille"; and the neighboring parish of Saint Joseph included "the part of the territory of Grenoble outside the walls, and the houses between the Drac and the Isère, situated in the area commonly called the islands of Saint Martin le Vinons." As the present Archbishop writes, "These parishes were separated by a rampart, built in 1670, running from east to west, and then from south to north." In the year 1840, part of these fortifications, "extending from east to west, which surrounded the city of Gratianopolis," were demolished, and on the large area that extended between the two parishes, from the wall, commonly called the rampart, to the outer perimeter of the fortifications, or the walkway, new buildings were constructed in several places. From this point, disputes arose between the parishes of Saint Louis and Saint Joseph. One maintained that the new houses belonged to its jurisdiction, since they were located outside the walls in which the city gate was situated; the other, considering that the walls and embankments were included, asserted the jurisdiction of the parish of Saint Joseph beyond the end of the fortifications, that is, the walkway.

[*Latin ed. p. 150*]

The boundaries of the *Gratianopolitan* district do not extend [here]. But the question, following the imperial decree of February 17, 1858, was resolved by Bishop Ginoulhiac on March 1st of the same year. "Considering that the constructions in question have been erected, or will be erected, only as a result of the demolition of the old ramparts that separated the two

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parishes of St. Louis and St. Joseph; that this demolition of the ramparts and the leveling of the moats have brought about a complete change in the configuration of said parishes; that several of the houses in question occupy land that was previously neutral, in a sense, and forbidden to any kind of private construction; that this upheaval in the state of affairs makes necessary a fair and rational rectification of the old parochial boundaries; considering that the street Condillac is the only natural boundary that can be given to the two parishes in the matter at hand, either currently, or in a more or less distant future, when it may be necessary to modify the boundaries of the parishes in the city of Grenoble in other places; that the axis of the street Condillac is, on average, 60 meters closer to St. Louis than to St. Joseph; that all constructions made or to be made on the north side of this axis form the continuation of the streets that have hitherto belonged to St. Louis; that the streets, formerly connected to each other by the inner street of the ramparts, are now scarcely connected by anything other than the street Condillac and the Vaucanson square; that of the various houses built or to be built on the north side of the aforementioned axis, those located at the western end, which are the subject of the request of St. Louis, are much closer to the church of that parish than those located at the eastern end, which undoubtedly belong to the same parish; Considering that if the parish of St. Louis derives certain advantages from this new delimitation, the parish of St. Joseph derives much more considerable advantages from the expansion of the city and the construction of several entirely new districts, which will remain..."

[*Latin ed. p. 151*]

GRATIANOPOLITAN 151 within its territory; We have ordered and order the following: "Article 1 — The boundary line separating the parishes of St. Louis and St. Joseph is established by the axis of the Condillac street, extended onto the Vaucanson square, up to the Bonne barracks street. > Furthermore, in the year 1883, the remaining portion of the fortifications was also demolished, and from this arose a new controversy between the aforementioned parishes. "In principle," writes the present Bishop, "the dispute appeared to be limited to the parcel of land resulting from the fortifications demolished in 1840, which had been annexed to the St. Louis barracks. The diocesan authority not considering itself competent to resolve the dispute, it submitted it to His Excellency the Minister of Religious Affairs, who, in his response of September 4, 1888, merely noted the authority of the decree of 1804 concerning the general delimitation of the parishes of Grenoble, and that of the decree of 1858. From that time, the dispute extended to the location of the rampart running from south to north." These controversies, becoming more serious with each day, and causing harm to the people and concern to the faithful, the Bishop, after unsuccessfully requesting that the pastor of St. Joseph "amicably cede to this parish (St.

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Louis) the portion of the new districts, located between the Condillac street extended to the lycée, the Gambetta boulevard, and the north side of the Alsace-Lorraine avenue, up to the St. Andrée street," issued a decree on November 12, 1889, in which the following provisions were established: "Until a different decision is made, we maintain the jurisdiction that Mr. the Pastor of St. Louis previously exercised over the portion of territory formerly belonging to the St. Louis barracks, and we furthermore grant him jurisdiction over the lands of the former fortifications located beyond the axis of the Condillac street, the North street of the Postes square, the La Fontaine street, and the Gambetta boulevard, from the La Fontaine street to the Isère River." But even before this, namely on August 1, 1888, the Prelate, as...

[*Latin ed. p. 152*]

152. The Bishop of Gratianopolitan sought to assist the faithful who resided in the suburbs of the city, and issued another decree which caused considerable concern to the parish priest and the governing board of the Church of St. Joseph. This decree stated the following:

Article 1: "We request the Rectors of the parishes to which the suburbs of Grenoble belong, to assist us in the project we have conceived, which is to provide the various groups that have formed around the city with chapels or churches, in order to facilitate the fulfillment of their religious duties."

Article 2: "Pending the regularization of this situation, the governing boards of the interested parishes shall be paid the compensation to which they would be entitled on the occasion of the ceremonies celebrated in the aforementioned churches or chapels."

Article 3: "In order to remove any inconvenience for the priests attached to these churches or chapels, we shall regulate their service for each one individually, and we undertake to resolve, either personally or through a representative, any points of contention between the Rectors of the interested parishes and the priests in charge of the aforementioned establishments."

Article 4: "We assume all responsibilities related to the aforementioned establishments, and we personally undertake to account to the various governing boards for all emoluments that the law guarantees to them, as stated above."

In December of 1889, the parish priest and the governing board of the Church of St. Joseph first complained to the Sacred Congregation [presumably referring to a local ecclesiastical tribunal] regarding the two decrees mentioned above, and requested that they "be annulled and declared void." However, since the former Bishop had requested that the matter be postponed somewhat, and later some hope of a settlement arose, the question remained unresolved, although some concessions had been made on both sides. Meanwhile, as the Bishop had begun to act with civil authority in

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order to reform the finances of all the parishes of the city of Gratianopolitan, the governing board of the Church of St. Joseph, clarifying its petition in a new document dated April 20th of the following year, insisted on the following:

1. That a division [of property or resources] be made.

[*Latin ed. p. 153*]

GRATIANOPOLITANA 153: Controversial matters between the two parishes of Saint Joseph and Saint Aloysius; 2. that the decree of November 12, 1889, may be reconsidered; 3. that another decree of August 1, 1888, concerning the jurisdiction of Saint Joseph, may also be revoked. The Bishop, having been requested, presented his reasons to the procurators of Saint Joseph, which were entirely contrary to theirs, and stated "that there is no reason... to rule on the 1st or the 3rd of the conclusions, these conclusions being without object," and also requested that the "2nd conclusion be rejected, confirming my aforementioned order of November 12, 1889."

Disputation Summary. SAINT JOSEPH. Those representing the parish of Saint Joseph, recalling first the words of the decree of 1804, by which a part of the territory outside the walls was added to this church, deny that the word "walls" designates the entire territorial boundary, which consists of valleys, embankments, ditches, ramparts, and all that extends far into the fields for the defense of the city. They proclaim it unheard of for the works of any construction to be called a "wall," but always either "walls" in cities, or "fortifications." Therefore, since the division between the city and the *suburbium* (Spišské Vlachy) must be traced to the gates that were closed at dusk to defend the entrance, and since, according to the aforementioned decree, the boundaries of the parish of Saint Louis are "from the bank of the road to France, to the gate of Graille," it would seem that the jurisdiction of this church ends near the walls. The advocate contends that this was also implicitly admitted by the Bishop in his letters to the Congregation of Rites dated March 16, 1890, and by the adversaries themselves. Therefore, if the jurisdiction of the parish of Saint Louis is contained within the walls and the gate, then the remaining surface of the fortifications belongs to the parish of Saint Joseph. However, even granting that the church of Saint Joseph has no right to the surface in question, the advocate continues, the place would be claimed by the argument that the intervening fortifications belong to neither parish. Thus, the Bishop himself believes. JURA PAROCHI.

[*Latin ed. p. 154*]

154. He recalls that it was the case when the Holy See was writing, or even more clearly, in a certain matter concerning political authority. Perhaps this strength stemmed from the fact that, until the demolition of the

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fortifications, the territory lacked any buildings. Following this opinion, according to the patron, Bishop Ginoulhiac established a new territory, both considering the present and future, from the road of Condillac to the road of the military station of Bonne. In this division, he notes, although it appears that the new territory largely belongs to the parish of Saint Joseph, that same church suffered a great loss when the buildings of the new fortifications occupied part of its rural territory. However, the speaker points out that this territory, having been fairly and legitimately divided in 1858 by Bishop Ginoulhiac, that same division passed into a settled matter, or rather, into law, after the secular sanction. Therefore, he argues that it was not permissible for the current Bishop, without new and serious reasons, to overturn the decrees of both authorities, and to invalidate the rights of others, especially after the parish priest of Saint Joseph had confessed in writing that a strict right existed for that purpose. The patron, however, believes that the parish of Saint Louis was wrongly invoked by the Bishop regarding possession. Indeed, since everything was intact before the decree of 1858, and therefore no possession could have existed, a period of thirty years had not yet elapsed before the commencement of the dispute. Moreover, after the decree, until the final demolition of the fortifications, namely, until the year 1884, possession was excluded, as it was observed that there was nothing there other than land suitable for the defense of the fortifications. However, after the year 1884, several buildings were constructed, but he states that these were not located within the territory of Saint Louis. He believes this can be deduced from the Bishop's letter of October 25, 1887, to the parish priest of Saint Joseph, in which he wrote, requesting the other parish to make a friendly cession of the new buildings, and also, from other letters of November 5, 1887, requesting the curate of that parish to grant a delegation, etc. Furthermore, the patron concludes, when the Primate of the opposing parish first conceded what he had requested, he...

[*Latin ed. p. 155*]

The GRATIANOPOLITANA session did not acknowledge nor confirm [the claim], but rather presented it conditionally, as the very words of the subsequent decrees clearly demonstrate. Therefore, the possession appears to be reducible to an invasion, since, as can be gathered from several items presented in the summary, the representatives of St. Joseph never failed to protest. Furthermore, the advocate argues, it cannot be objected that the parish of St. Louis already possessed the property in 1889, by virtue of a decree from the bishop, concerning the dwellings constructed where the military station of Bonne was located; because the pastor of St. Aloysius has used the jurisdiction of his parish more than once, and repeatedly, outside the place where the military station of Bonne was established. For, firstly, the authority of the bishop is lacking, who, in good faith, considers an initial clandestine and violent possession to be valid as a title; secondly,

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the more extensive the usurpation, the broader the title must be recognized. In reality, after the bishop had assigned a portion of the territory to the parish of St. Louis, it appears that, without anyone requesting it, he subsequently included the entire area on November 12, 1889; until the decision is made, we maintain the jurisdiction of the pastor of St. Aloysius, which he previously exercised over the portion that was recently dependent on the military station of St. Aloysius; and furthermore, over the dwellings located near the old fortifications, which were situated beyond the Condillac road. However, the advocate recalls that, in established law, even if the parish of St. Louis could present a legitimate, albeit brief, period of possession, the boundaries of parishes are not subject to prescription, even by secular law. The witness Reiffenstuel, in *Ius can. I. II*, title XXVI, n. 40, states: "The boundaries or limits of provinces, dioceses, and parishes, or those adjacent to them, which have been previously established by ecclesiastical ordinance, cannot be legitimately prescribed... Therefore, this applies to all prescription, whether with a title or without a title, even for an indefinite or more than one hundred years." Schamalzgrueber, in *Ius eccl. part. III*, title XXIX, § 3*, n. 22 and 23, concurs. Moreover, secular authority has indicated to the bishop that this must be observed in the boundaries of parishes in Gallic law, as they themselves...

[*Latin ed. p. 156*]

156. The argument from Gratianopolitan law signifies that the alteration of the boundaries of the parish of St. Aloysius, to a greater or lesser extent, could not change the limits established by the decree of April 28, 1804, and modified by the decree of February 17, 1858; in this matter, the prescribed rule must hold. However, the Bishop stated that he was compelled to assign the disputed territory to the parish of St. Louis because, according to him, the people of that parish entirely desired it, and he considers this reason to be of little importance. Furthermore, besides the fact that audacity is insufficient to suppress a right, the Bishop's fear of serious scandals, which the advocate perhaps considers unfounded, could be said to be vain, both because the peace and religion of the citizens of Gratianopolitan have never been disturbed, and also because the provincial, who, at least for the sake of public order, ought to have cared for the peace of the republic, did not fear this at all. Hence, a milder reason appears to be that expressed in the letter of the same Prelate to the pastor of St. Joseph, dated May 31, 1889, in these words: "I know that the parish of St. Aloysius is demanding that I abolish my decree. In view of this, it is my duty to maintain my decree, and I maintain it." As for the main objection, namely that we are dealing here with provisional decrees granted out of necessity, the advocate observes that his clients are not fighting against these provisional decrees, but against the establishment of a permanent boundary. They also inquire about these provisional decrees because, if we are to believe him, they are only called

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"provisional," while there is no prospect of a permanent definition. However, these have been in force for three years now, and he considers that the damages and injustices suffered during that time cannot be tolerated. Indeed, the Bishop wrote to the pastor of St. Joseph: "Be patient, Archpriest, and attend to this matter with me; a response cannot be delayed." But he did not consider it necessary to wait, and, while the dispute was pending, he granted everything to his opponents. Finally, the advocate argues that the aforementioned decrees are called "provisional," either because the Bishop, writing to the authorities of the republic concerning this matter, or because...

[*Latin ed. p. 157*]

The parish of St. Louis in Gratianopolis contends with all its might, and through fervent prayer, seeks to have that territory rightfully belong to it, as is clearer from what the parish priest of St. Joseph communicated: "My decision is the judgment in the matter under consideration." The defender then points out two things that the Bishop mentioned, which cannot be passed over in silence. The first is that the parish of St. Joseph suffers a very small and insignificant loss; the second is that the controversy is fueled by the parish priest, Ginon, who opposes the Bishop in all matters of the diocese. However, the defender strives to demonstrate that the decrees have caused the greatest harm to the parish of St. Joseph, namely, from the fact that the very extensive region on the side of the road called Condillac, which, by decree of August 1, 1888, was assigned to the parish of St. Louis, and which was taken from the parish of St. Joseph on November 12, 1889, is inhabited by three thousand people, as the municipal census of April of the year 1891 abundantly testifies. Since the matter at hand concerns avoiding a true loss to the parish, the defender notes another observation, by which the present judgment is attributed to envy on the part of the parish priest. Furthermore, the Bishop, while the dispute was pending, wrote to the parish priest on August 17, 1890: "It is requested from the Apostolic See that all scandal cease, and therefore I propose to you that the matter be considered only with respect to administration, and not at all with respect to persons; I will rejoice if peace and tranquility return among us." Although it is reported that the judgment was not made by the parish priest, but by a group of church wardens who were then coalescing with several prominent men, as can be seen from the booklet published in the records, where the following is stated: "It is impossible to admit that a personal matter is being raised by so many in defense of sacred rights." Having considered these points regarding what the Prelate has presented, the defender concludes that the decree of Bishop Ginoulhiac of the year 1858 must be upheld, and therefore, the right sought, which the church of St. Joseph derived from that decree. Therefore, it is not the case that the Bishop succeeded in assigning territory to the parish of St. Louis, as he

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himself wrote on June 7, 1889, despite the ministerial decision, issued in favor of St. Joseph. Indeed, the Archbishop of Gratianopolis, according to the speaker, does not fail to mention...

[*Latin ed. p. 158*]

158. The ecclesiastical law permitted Bishops, within the limits of their parishes, to define or modify boundaries, but it was necessary to obtain the consent of secular authority. This is not only prescribed in that most grievous law of the Church which the French call "Organic Articles," but also in the Convention entered into in the year 1802 between the Apostolic See and the Emperor of France, established by the Constitution *Ecclesia Christi*, and which, therefore, ought to be considered as law. Indeed, it is stated in the Constitution *Ecclesia Christi*: "When dioceses are established, and it is absolutely necessary to establish the boundaries of parishes as well, We wish that the circumscription of these parishes be determined by the Bishops; but this circumscription shall not have effect unless the consent of the government is added." And in Article IX of the aforementioned Convention: "Bishops shall define the boundaries of new parishes within their respective dioceses; but this definition shall not have effect unless the consent of the government is added." Furthermore, Bouix, in *De Parocho*, part 2, chapter 5, requirement 11, points out that "in France and in some other regions where the Concordat of 1802 is in force, the consent of the government is required... From this provision it follows that parishes erected in this manner cannot be divided, unless with the consent of the same government, and this has been observed in practice since the time of the Concordat." The author notes that the secular authority has always recognized this legitimate power, and this can be abundantly gathered from several letters of the aforementioned Prelate. Therefore, since it has been established that, by Church concession, civil consent is required for any modification of boundaries, and that it cannot be refused in this matter, since the Bishop himself has repeatedly requested it; the meaning of what the civil authority has stated must be considered by the author. Indeed, as has been stated above, this has rendered the alleged possession of St. Louis null and void, and has ordered that the boundary established by the decrees of April 28, 1804, be maintained.

[*Latin ed. p. 159*]

GRATIANOPOLITANA, February 17, 1858, but indeed, after further letters from the Prelate, it openly declared: that the episcopal decrees of November 12 and August 1, 1888, notwithstanding the arguments presented by the same, are irregular and of no value, because without the intervention of civil authority, no circumscription can be lawfully established. The advocate, however, wonders how it is that the Bishop, after such a response, and after having declared to the parish priest the

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resolution concerning the ministry, nevertheless, in his letters to the Sacred Congregation of March 16, 1890, affirmed: that the matter was submitted to the Ministry of Cults, and that it had given no response, neither for nor against. Then, proceeding to a new proposal for the circumscription of parishes, a proposal presented by the Bishop to the judgment of civil authority, the advocate believes that it appears that this proposal should not be abandoned until its definition. Forgetting, for the moment, that this is a completely different matter, he observes that the just reintegration which should always and in every case take place, because of the contrived appearance of novelty, which will never be able to achieve its intended effect, should not be suspended. For, first of all, if we are to believe him, it would impose excessively burdensome obligations on the parish of Saint Joseph, and therefore could not achieve its intended effect. In truth, he says, the parish of Saint Joseph would lose 3500 faithful, of whom 2000 are on the street called "Cours St. André" and 1500 are in the part of the square called "Victor Hugo," which is a violation of the rights of the parish of Saint Joseph. Furthermore, the advocate continues, the erection of a suburban parish is absolutely necessary, and this is clearly indicated by the episcopal decree of August 1, 1888. Since this is a matter that must be carried out, 2400 more inhabitants will be added to the same parish of Saint Joseph, and thus, in total, 6000 faithful, that is, half of the entire jurisdiction. Secondly, the advocate argues that the proposal drawn up by the Bishop cannot be put into effect, because the Bishop himself openly admits: that our proposal cannot be put into effect unless it is accompanied by private fortune. It appears to be very difficult, especially in these times, to collect from private individuals such a large sum of money as is required.

[*Latin ed. p. 160*]

160 For the project in GRATIANOPOLIS, an expenditure of "three million" was to be allocated for the partial construction and partial restoration of churches. The council for the construction of Saint Joseph's states that no assistance should be expected from the municipal authority, for that authority first recognized the need for only one church, and furthermore, it would never be able to bear such a heavy burden. However, even given this example, it was not impossible for this undertaking to be completed in a short time and to be decided upon by the authorities of the republic. Indeed, with regard to the present matter, the Bishop of S. C. wrote: if the administrator makes a decision favorable to the construction of Saint Joseph's, the construction of Saint Aloysius will appeal to the Council of State, since it has the right to do so. Furthermore, it should be added that after the decision of the Council of State, if they wished, they could appeal against its decision. Therefore, the advocate concludes, if the Bishop, in the proposed division, harms each parish, he harms the municipality,

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and since the detriment to our church is confirmed, protests, complaints, and appeals should be expected from all sides, which would prolong the matter for a very long time. Finally, the speaker laments that the Prelate has appeared to intend nothing other than to undermine both civil and ecclesiastical authority through delaying tactics. For on June 3, 1889, he wrote to the council for the construction of Saint Joseph's: do not appeal to the civil court, otherwise you will incur the penalties prescribed by the diocesan statutes. And since the representatives of Saint Joseph's appealed not to the civil magistrate, but to the S. C., the Archbishop wrote to them: we await the definitive response of the S. C. Council. However, the S. C. requested that the civil authority refrain from making a decision in the entire case. This, he believes, is the same as completely denying the right to appeal. For when the representatives of Saint Joseph's accept the decree of the civil authority, they will have no recourse against the final judgment. It would be in vain to appeal to ecclesiastical power, which could not revoke a secular decree once it had been issued, contrary to the law of the apostolic convention. It would also be in vain to appeal to the civil court, not only because the Bishop forbade it, but also because, in a timely manner, before making their decision, they had relinquished their rights.

[*Latin ed. p. 161*]

GRATIANOPOLITANA 161. Concerning the manner in which this matter should be handled, according to canonical law, which prescribes that the parties involved in a dispute should be heard, and the patron [of the church] has shown himself unwilling to comply with the apostolic constitution, especially considering that the document transmitted to the provincial on July 7, 1889, was not communicated to the council of the Church of St. Joseph until eight months later.

THE RIGHTS OF THE PARISH OF ST. LOUIS. However, it must be stated that, according to the decree of the year 1804, the jurisdiction of the parish church of St. Joseph extended only to that territory which lay outside the walls, and therefore could be considered suburban. The council of St. Louis notes that, by the term "walls," one must understand the entire ring of fortifications which enclosed the valley and the ramparts, commonly called the ramparts, and which were connected to them. Indeed, such fortifications should be considered only as accessories to the walls, and therefore do not belong to the parish of St. Joseph, as is the judgment according to chapter 'Translato De Const. in adnexis.' Furthermore, it is stipulated that, as the secretary of the Bishop writes, "according to the interpretation of the officers of the military engineering corps, the expression 'extra muros' means: 'outside the ramparts, outside and beyond all defensive works.'"

Therefore, the opinion of the current Bishop appears more probable, namely that the territory of the ancient fortifications did not belong to ei-

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ther of the two parishes, and as Bishop Ginoulhiac stated, it was "in no way neutral." For although, speaking legally, every part of the territory must necessarily belong to some parish, it could be justly maintained that the decree of the year 1804 did not foresee the case in which the fortifications would be demolished, and therefore the complex of ramparts was taken as the boundary. As Cardinal De Luca says, "a boundary participates in the extreme," and therefore the intermediate surface should equally belong to both parishes and be divided between them in due proportion. *De Regat. dis. 136, De iudiciis disc. 24.* Bishop Ginoulhiac made an equitable division of the part that extends to the east; for the remainder, the Acts, Volume XXV, pages COXCI. 11.

[*Latin ed. p. 162*]

162. The Bishop of Gratianopolitan [Gratianopoli] is a modern prelate who has already instituted proceedings concerning this matter with civil authority. If he has seized this opportunity to present a proposal for a new delineation of all the parishes in the diocese following a recent administrative reorganization, it cannot be inferred from this that the matter was intended to be detrimental to the rights of the Church of St. Joseph, nor that it has been delayed for a long time due to the intervention of the government. The Bishop states that the definitive delineation will be made according to the Concordat of the year 1801 and the Bull *Ecclesia Christi*, but that it must be done, above all, with regard for the good of souls in the six populations. The Sacred Congregation for the Eastern Churches will certainly not oppose this. In fact, it is alleged that a decree was issued by the Prefect of "l'Isère" on June 11, 1891, in which it is stated that "an inquiry into the advantages and disadvantages" regarding the new delineation of the parishes will be conducted, and that all inhabitants are urged to submit their declarations to the elected commissioner, if they so desire. Whether such proceedings are opportune will, of course, be determined by the customary wisdom and prudence of the Most Reverend Fathers. As for the decrees of August 1, 1888, and November 12, 1889, whose abrogation is requested by the council of the Church of St. Joseph, the Bishop submits the following: The decree of August 1, 1888, did not have as its object any dismemberment, but rather an invitation to the pastors to erect chapels for the benefit of 2500 souls. Since the pastor of St. Joseph refused assistance, I could not understand how some religious communities had not erected chapels in which the faithful could easily attend Mass. Therefore, this decree did not constitute a threat of future actions, because its object was not the erection of a new parish. However, the Bishop could erect one according to Trident, Session 21, chapter 4, and according to articles 61 and 62 of the organic statutes. The advocate for the pastor of St. Joseph, the Ordinary continues, believes that my decree of November 12, 1889, is contrary to the organic statutes, and to the Bull *Ecclesia Christi*. This Bull, having made

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provisions for the erection of new dioceses, orders bishops to determine the boundaries of new parishes, this delineation...

[*Latin ed. p. 163*]

GRENOBLE 163 will achieve its effect when it obtains the consent of the civil government. Firstly, the Bishop stated, he had not imposed anything on the parish priest of St. Joseph: the territory in question was part of the ancient military station of St. Louis, which had always been under the jurisdiction of the clergy of St. Louis. The demarcation of the year 1804, since it did not grant the parish of St. Joseph any boundary other than the territory of Grenoble outside the walls, the parish priest of St. Louis claimed the adjoining territory, stating that he was prepared, legally and otherwise, to defend his rights before the ecclesiastical authorities and the Council of State. His claims seemed all the more justified because the parish priest of St. Joseph had opposed arguments of the slightest importance. Thus, he had misrepresented the meaning of the episcopal decree regarding the demarcation of the year 1858, and the minutes of the commission established to carry out this demarcation. The provision of November 12, 1889 was entirely provisional. In truth, the proposal for demarcation had been presented to the civil government. However, things could not remain in this state because of the destruction of the military fortifications. Indeed, many houses had been built, and were being built: and the families residing in these houses did not know from which parish priest they should receive the sacraments. Both the parish priests of St. Louis and St. Joseph claimed jurisdiction. Clearly, these two parishes lacked defined boundaries; and the Bishop had to consider the good of souls; which he believed he could achieve through the decree of November 12, 1889. This provision was truly prudent, for even though the parish priest of St. Joseph obtained it, and reported it to the Holy See and the civil government, the matter was settled: and no other complaint was heard from the faithful of St. Louis. The government also opposed nothing, although some had urged it to do so; because it knew well that the Bishop must have considered the circumstances that arose. However, in order to settle the matter, it was necessary to dilute the proposal.

[*Latin ed. p. 164*]

GRATIANOPOLITAN 164. A question arises: How and to which parish should the territory of the demolished fortifications of the city of Gratiopolitan be assigned, in this case? RESOLUTION. The Sacred Office, having considered the matter on May 21, 1892, decided to respond: Regarding the definitive demarcation, the procedure should follow the form of the solemn convention between the Holy See and the French government of the year 1802. In the meantime, however, the territory of the demolished fortifications, which is not included in the demarcation of

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the year 1858, pertains to the parish of Saint Joseph.

MELEVITAN BORDERS AND PAROCHIAL RIGHTS. On July 23, 1892, Session 24, Chapter 13, concerning Reform. At the extreme end of the great port of Melevitan, there rises the city of Conspicua, which is bordered on the opposite side by the city of Victoriosa, fortified with walls and defenses. The first was separated from the other regarding the care of souls in the year 1584, and between the two, although outside the walls of the city of Victoriosa, there is the forum of Saint Margaret, which the chapter and the pastor of the collegiate church of Conspicua claim up to the tunnel commonly called "tal Kassatat," and, conversely, the archpriest and pastor of the collegiate church of Victoriensis contend that he has complete jurisdiction up to the statue of Saint Elijah near the convent of Saint Theresa. To this question, another is appended, for the understanding of which it should be noted that, within the boundaries of the parish of the city of Victoriosa, there is erected upon a certain promontory the church of Saint Liberata, belonging to the brothers of the Order of the Capuchins, in which the inhabitants of the city of Conspicua?

SUMMARY OF THE MATTER. 1.

[*Latin ed. p. 165*]

In Melevitana, as with others in Malta, it is customary for the deceased to frequently choose to be buried there, due to their devotion. In such cases, the parish priest of the deceased cannot transport the body beyond the boundaries of the parish of Vitoria, where the rector of that parish receives the body and accompanies it to the church of the P.P. Capuchins. This is according to custom, the basis of which the parish priest of Vitoria cites from a reservation of parochial rights made under a faculty granted by the Bishop of Melevitana to the P.P. Capuchins in the aforementioned place in the year 1736. "We grant the faculty, with regard to this necessary part, for the founding and building of the aforementioned new convent, provided that... they show patience, so that the aforementioned parish priest of Vitoria, on the occasion of a funeral, may enter, with his chaplain, wearing a stole and holding a raised cross, to give the deceased their final farewell before burying him there." Contrary to this custom, which the parish priest of Vitoria defends, the chapter and the parish priest of Conspicua object to it, arguing that it is burdensome to the faithful due to the payment of a double funeral tax, that it provides an easy opportunity for scandal, and that it is contrary to the ordinances of the Holy See. The Bishop of Melevitana, when consulted about the matter, sent a most thorough report to the Sacred Congregation, in which, addressing the boundary question first, he presents documents gathered from various sources, and then adds: "I believe it is necessary to note that the documents and other evidence presented by both

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sides cannot resolve the boundary question, because from the year 1763 to the year 1851, jurisdiction has been exercised indiscriminately by both parishes with regard to a few dwellings existing in the place called Mina tal Kassatat. Furthermore, neither the pole existing near the statue of St. Elijah, nor the statue itself, appear to mark the boundaries of either parish; for this, the Archpriest of Vitoria does not vouch. Indeed, from some testimonies, it appears that the pole and the statue were not placed there as a boundary marker between the parishes, but at a completely different location. Furthermore, the custom of burying bodies now at the aforementioned..."

[*Latin ed. p. 166*]

166 The placement of the statue, now situated in a different part of the aforementioned square, did not appear to be a completely satisfactory solution; and even if it had been, it could have been the result of mutual tolerance on the part of the parish priests. The Archpriest presumed to approve the statue of St. Elijah as a boundary between the two parishes, based on the fact that many prelates would often bid farewell to the Chapter of Victorious and then join the Chapter of the Prominent near the statue of St. Elijah. Even if this fact exists, it seems that nothing can be gleaned from it other than the laudable desire of these prelates to maintain things in their current state; but it does not resolve the boundary issue, which, in itself, does not infringe upon parochial rights, since there are no dwellings located between the statue of St. Elijah and Mina tal Kassatat. Meanwhile, the civil government has established the boundaries of these parishes. The second issue concerns the following: and, citing certain decisions and decrees of the Holy Congregations, it proceeds as follows: Certainly, until now, a custom has existed between the two parishes that is contrary to these decisions regarding the delivery of corpses, but it is also true that scandals and dissensions have arisen from this unusual custom, which is contrary to the canons. For the heirs of the deceased are burdened with a double obligation towards two parish priests; which is contrary to the Constitution of Pope Benedict XIII of May 4, 1725, and the resolution of the Holy Congregation of Bishops and Regular Canons in Brundusina of December 7, 1640. However, this custom, insofar as it infringes upon parochial rights, is declared to be null, void, and of no effect by the Decree of the Holy Congregation of Councils of January 29, 1821. Therefore, the Prelate says, I believe that this second issue, which concerns the delivery of corpses, should be resolved by means of the disposition of the resolution of the Holy Congregation of Councils of November 14, 1676, and that any custom contrary to the disposition of the aforementioned decree of January 29, 1821, of the Holy Congregation of Councils, should be declared null and void. Synopsis of the Debate. DEFENSE OF THE PARISH OF THE PROMINENT. Thus, addressing the issue of boundaries, the patron of the

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chapter and the parish priest of the collegiate church, civ.

[*Latin ed. p. 167*]

MELEVITANA, citing 167 authorities, sought to demonstrate, based on decrees from the Council of Trent, Session 24, Chapter 13, concerning ecclesiastical reforms, and from Ferraris, Volume 4, paragraph 4, on parishes, the absolute necessity of defining a specific territorial district for the safer salvation of souls entrusted to the care of the parish priest; and subsequently, he presented further arguments, with which he sought to prove that the square of Saint Margaret lies within the boundaries of the parish of Conspicua. He argued, first, that this could be deduced from the fact that the city of Victoriosa is entirely surrounded by fortified walls, and that the square of Saint Margaret is located precisely outside these walls, which mark the boundaries or limits of the city, as is derived from L. 173 ff. of the *Glossa* concerning the meaning of the word ”fines” – ”Those who are within the boundaries are considered to be within; he who is outside is absent; but he who is up to the boundaries does not seem to be absent.” Furthermore, the Defender added that the argument gains strength if one considers the reason why Conspicua was separated from the parish of Vitoria, under the title of Saint Lawrence, in the year 1854, which was precisely because the city of Victoriosa was connected by walls, and at night the gates of that city were closed, so that the citizens could not receive the Sacraments from the parish priest of Saint Lawrence, should a need arise during the night, as narrated by Ciantar, the author of the work entitled *Malta Illustrata*. Therefore, it cannot be presumed that the square of Saint Margaret, located outside the walls of the city of Victoriosa, was not then separated from the parish, because otherwise, the same inconvenience that the separation sought to eliminate would persist. Moreover, the aforementioned Ciantar, in his work, § L, states: ”The area now known as Conspicua... within its boundaries, many villas have been built, especially on Mount Saint Margaret, in honor of whom a church was built there... and on the same mountain, and another called Delia Mandra, the fortress of Firenzuola began to be built in the year 1638.” Indeed, if Mount Saint Margaret, and the fortress built there, undoubtedly belong to Conspicua, then, the Defender added, it must certainly be held that the square of Saint Margaret also belongs to Conspicua, because the one cannot be separated from the other, since they are part of the same territory and the same parish within the territory of Conspicua.

[*Latin ed. p. 168*]

168. To these statements, the aforementioned Advocate adds that, in the acts of civil government, the aforementioned square is not simply called ”of Saint Margaret,” but ”of Saint Margaret the Visible” or ”the Visible”; and he then presents a photographic document, prepared by the civil government

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itself, of which the Bishop also speaks in his report. Having thus brought matters to this point, the Advocate more forcefully seeks to support his thesis, either through possessory acts or through the exercise of parochial jurisdiction. First of all, he cites the testimony of the current Vicar General of Melelitana, the archpriest Despott, the provincial of the Capuchin Fathers, the prior of the Order of Preachers, the prior of the Carmelites, and the Knight Inglott, who unanimously assert that processions are led through the square of Saint Margaret by the collegiate church of the Visible. The aforementioned Vicar General further declares that he freely exercised parochial jurisdiction over the buildings constructed in the year 1862 in the square of Saint Margaret, while fulfilling the office of Vicar Curate of that chapter. This is corroborated by the aforementioned Knight Inglott. He also presents the testimonies of Francis Chiappara, Joseph Chircop, Michael Mallia, Carmel Cutajar, and of the Vicar General himself, to more clearly demonstrate that, with regard to those living in the place commonly called "sotto la Mina," also known as "Kassatat," the bodies of the deceased were raised there by the parish priest of the Visible, and that he also administered the Most Holy Sacrament and other sacraments there. And he seeks to confirm this with six documents extracted from the parochial books of the Visible. Finally, speaking of the altar and the statue of Saint Elijah, the Advocate presents several other witnesses, and concludes as the Bishop does. And so he proceeds in the same manner regarding the custom observed during the Holy Visitations, as well as regarding the testimonies and documents presented by the opposing side. Then, with all his strength, he seeks to establish the custom by which the parish priest of the Visible is prohibited from entering the boundaries of the parish of Vitoria in order to attend the funerals of his subjects, up to the church of the Capuchin Fathers. For it has been shown that...

[*Latin ed. p. 169*]

Concerning the matter of funerals, it is the right of the proper parish priest to have jurisdiction over them, meaning that in whose district a person, while dying, has his domicile or quasi-domicile. Chapter 3, Concerning burials, in the 6th book of the Clementine Decrees. Previously, in the same title, and in the Roman Ritual, Concerning funerals. Therefore, this proper parish priest is to be considered not only for the removal of the body, but also for the performance of funeral prayers, and for the burial of the deceased. Vecchiotti, Institutes of Canon Law, book 3, chapter 5. If, however, the case arises of a burial outside the parish, it still pertains to the proper parish priest to remove the body and to perform the funeral rites until the church where the body is to be buried; so that the parish priest of the place through which the funeral procession passes, cannot obstruct, nor demand any fees, nor claim jurisdiction, if this passage occurs in a proper and unostentatious manner. Vecchiotti, loc. cit., § 60 and 62;

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Ferraris, v. Paroch., article 3, n. 36 – there – "On the occasion of the funeral of a body from another diocese or parish, in the churches of Regular clergy, the proper parish priest of the deceased may freely pass, with the body carried in procession, through any dioceses and parishes, with a stole and cross raised, even without the permission of those same parish priests." Thus, the Sacred Congregation of Bishops and Regulars, in the Piacentine case, on November 24, 1713, in response to the first question, and in other instances.

However, this Sacred Congregation, having been asked by the Brothers of the Reformed Order, of the locality of Binasco, in the Diocese of Pavia, to declare:

"I. Whether a pastor of one diocese, whatever it may be, in the passage of a body, which is carried in procession to a church of Regular clergy from another diocese, can demand any part of wax or money from the heirs of the deceased, while passing through his own jurisdiction and parish?

II. Whether the proper parish priest of the deceased, while passing through the parish of another parish priest of any diocese, in order to carry the body in procession to a church of Regular clergy, can lawfully pass through it, even with a stole and cross raised, without the permission of the parish priest?"

responded on November 28, 1671, to the first question negatively, and to the second question affirmatively. This resolution was confirmed by Innocent XI.

[*Latin ed. p. 170*]

170. The Most Reverend Prelate confirmed, in the most ample form, through the Constitution *Exponi nobis ad rem editam* issued on December 11, 1676. The Advocate stated that custom cannot prejudice positive law, unless it is reasonable and legitimately prescribed. Regarding how reasonableness should be understood, Ferraris teaches in *Consuetudo*, number 16: "A custom is generally considered reasonable, which does not contradict natural or divine law, nor is it disapproved of by canon law, nor does it grant permission or opportunity for sin, nor is it harmful in any way to the common good; that which falls short in any of these respects is considered unreasonable, and consequently, it can never be established by acts contrary to law." Furthermore, the Advocate maintains that, by comparison, the rule established between custom and the custom in question cannot be ambiguous regarding the unreasonableness of the latter. For, according to what has been stated above, he affirms that it is disapproved of by canon law; that it provides permission or opportunity for sin, as testified by the Bishop, who states that such a custom has produced bad consequences and scandals concerning the matter at hand; and finally, that it is harmful to the common good, since the same Bishop testifies that the heirs of the deceased are burdened twice over by parochial

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rights, and that such a custom has been the origin of many disputes and abuses. Moreover, the Advocate argues that the aforementioned custom cannot be said to be legitimately prescribed, because the rights of the parish priests are subject to prescription, citing what is read in Andrien, *Iurium et privilegiorum*, June 2, 1883, page 388, *Thesaurus*. - there - "Nor does a custom of a hundred years seem to extinguish a right, which presumes a favorable disposition and a privilege." Since the rights of the parish priests are not only not extinguished by a custom of a hundred years, but also a custom of a hundred years cannot be opposed to them, as has been repeatedly decreed by the Sacred Congregation of the Council, especially in *Liaren. Ianum*, June 2, 1820; and in *Nullius Sublacen. Iurium parochialium*, January 29, 1821, in which it is expressly stated that the rights of the parish priests are safe and secure.

[*Latin ed. p. 171*]

"It is to be considered that this [dispute] has existed for forty years and a hundred years." DEFENSE OF THE PARISH OF VICTORIA. Another advocate, defending the rights of the parish of the Collegiate Church of St. Lawrence in the city of Victoria, places above all else the ancient form of this parish, which, according to a document signed by the ecclesiastical assessor of the Melevitan curia on November 18, 1763, is declared authentic and perhaps contemporary with the division, and which demonstrates that the boundaries of both parishes were defined by a road then existing, and partly now obstructed by subsequent military works; and this road, it is stated, extended from the shore of the sea to the Delia Cottonera gate (Zabbar Gate), so that it is clear that the entire St. Margaret's square of the parish of Victoria was preserved during the division. It is unnecessary to inquire what this implies against the established form, because the parochial territory is to be measured not by military works, but by ecclesiastical disposition; nor is it necessary to inquire whether it would be more advantageous to assign St. Margaret's square to one parish rather than the other, because we are dealing with a right already established, and not with a right to be established. Having stated these things, the advocate strives to prove his thesis by peaceful evidence, lasting more than a century. Indeed, there is no reason to doubt that the aforementioned square belonged to the parish of Victoria since the year 1584, before the division. After the division, however, the continuity of possession was not interrupted or weakened, since no document to this effect is presented by the opposing side: no document from the previous century (1584-1684), no document from the following century (1684-1784), no document in subsequent years, up to the twentieth century, when older witnesses are said to have been brought forward by the Illustrious Chapter. Therefore, the silence of the opposing side itself confirms that St. Margaret's square is actually within the boundaries of the parish of St. Lawrence, because it is not proven that it was separated from

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it. Furthermore, he adds more supporting evidence, including, above all, the authentic form mentioned above, noting that it is true that the road designated from the shore of the sea to the Zabbar Gate demonstrates...

[*Latin ed. p. 172*]

172. The inhabitants of both parishes desire that the boundary be maintained peacefully, even now, over a long stretch (where, indeed, no new constructions have occurred), as it has been for a long time. Therefore, the opposing party disputes the existence of a boundary where the image of Saint Elijah now stands; however, the location remains, being on the seashore. Nor can these same opponents deny that the citizens of Vitoria have a cemetery in the very center of the square of Saint Margaret, where those who have died from the plague are buried, and that the parish priest of Saint Lawrence, and indeed, every year on November 2nd, leads an expiatory procession to this cemetery, and conducts solemn prayers through the aforementioned square, whenever some calamity threatens. Furthermore, the Advocate seeks information from the parish records of Vitoria, in which the inhabitants of Minae are listed almost every year from the year 1747 until the year 1779, and from the year 1779 until the year 1783, the same records continue. And the Defender adds that this is the gate, which today goes by the name: Mina tal Kassatat. To this, the Advocate adds, the records of baptisms given to children (1760, 1764, 1791), of marriages blessed (1772, 1801, 1817, 1851), and of the funerals of the deceased (1763, 1780), and he wishes it to be noted in the documents presented that this place, Mina tal Kassatat, to whose inhabitants the sacraments are administered, is to be considered as contiguous to the parish cemetery located in the square of Saint Margaret: for example, "the inhabitants of this parish who live near the gate that leads to and passes through the enclosure or cemetery of the infected." Moreover, it is not sufficiently demonstrated that the acts of jurisdiction were carried out by both parish priests; since one or the other case could not hinder the secular and continuous exercise of the parish priest of Saint Lawrence. But this assertion vanishes if one considers that the four witnesses on the opposing side present only isolated facts, ambiguous, and often repeated and varied concerning the same case, and those only from the 19th century, rarely from direct observation, more often from hearsay. Furthermore, it is not without skill that Mina tal Kassatat is confused by the opposing side, which...

[*Latin ed. p. 173*]

The entire area of Melevitan is within the boundaries of the city of Vitoria, with the parish of Mina Zabbar, under whose jurisdiction the division of parishes is held, so that, on the left, the parish of St. Lawrence and, on the right, the parish of Conspicua have an undisputed right. However, this exception, made contrary to the testimony of witnesses, is

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not tolerated by those whom the Orator himself brings forward in greater number, because they do not determine the boundaries of the parish of St. Lawrence by induction, but by explicit confession. Furthermore, he recalls the sworn testimonies of Salvator Farrugia, Lawrence Colleia, Raphael Camilleri, Lawrence Aquilina, Joseph Bonello, Gabriel Fabri, and Augustine Montesiu, who either absolutely affirm, or assert that they have heard, that the boundaries are where the statue of St. Elijah is now located. He also recalls the previous two witnesses distinguished by their priestly character, and adds Joseph Battigieg, in order to demonstrate the custom observed by the Ordinaries of Melevitan in St. Visitation, namely, not allowing the chapter of Conspicua to proceed beyond the place where the statue of St. Elijah is visible, even with their accompaniment. This fact, indeed, is not diminished by the observation of the present Bishop, who, by conjecture, says that the very fact should be attributed to the laudable effort of his predecessors to maintain the existing state of affairs; for, from the desire to maintain the existing state of affairs, it clearly follows that such a state existed and exists in favor of the parish of St. Lawrence concerning the possession of the square of St. Margaret. Finally, returning to some of the witnesses mentioned, and adding Theresa Durante and Joseph Borg, the advocate seeks to confirm his thesis based on the custom of receiving corpses in that place, which he himself previously judged to be the dividing line, and he attempts to draw the testimony of the aforementioned Vicar General to his side. This witness, who was formerly the parish priest of Conspicua, although opposed, nevertheless admits that he delivered the corpses to the other parish priest, not at the gate, but near the gate of St. Margaret, or on the road leading to it, or even in the very place indicated by the witnesses from Vitoria, namely, under the Protestant church. After these matters, the advocate addresses another question.

[*Latin ed. p. 174*]

174. The Advocate alleges, first, that, considering the matter in its factual aspect, a reservation of parochial rights was made in the terms of the faculty granted to the PP. O. Capuchins on April 9, 1736; and he observes that no one, except the modern Capuchin Chapter, has hitherto contested this custom. However, it would be easy to oppose this with decisions of the Sacred Congregation, since these are always presented in special cases, and it would be necessary to see how they apply to the matter in question, which concerns a custom not arising from a fact, but sanctioned by an episcopal decree. Nor is it necessary to speak here of offerings and taxes to be established or amended; for if any are to be established or amended, this pertains to the Bishop and his synod, saving the right of anyone who may have been questioned. Therefore, the Advocate continues, either the question is one of law, or one of discipline; regarding the question of discipline, he must

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not intercede for his client; but regarding the question of law, he protests, to the extent that the aforementioned custom is qualified as arbitrary and illegal. This is not to be forbidden; indeed, it can be universally accepted, as demonstrated by Barbosa in *De Officiis*, book III, chapter 26, and by several responses of the Sacred Congregation. Here, we are not dealing with an intermediate parish, through which a priest, approaching the church where the deceased is to be buried, may pass, raised with a cross and stole, if that has been the custom; but we are dealing with the very burial church, which is represented by the parish priest, and exists within the territory of the same parish priest, through which no one is permitted to pass with such adornment, unless the priest himself consents. And since, in this case, the boundary of the parish is equivalent to the boundary of the burial church, the Advocate concludes that all the decisions cited by the opposing party are completely refuted. Indeed, the Advocate is astonished that the rights of the parish priest can so easily be overturned or questioned by the Ordinary, as the Constitution of Innocent XI suggests. In that Constitution, the Pope confirmed the responses of the Sacred Congregation regarding doubts proposed by the Minor Friars of the place of Binasco. However, the first doubt does not pertain to the matter; the second doubt, however, is worded as follows: "Whether the parish priest..."

[*Latin ed. p. 175*]

"In Melitensi, 175 deaths, carrying the corpse processionally through a foreign parish, can the parish priest carry the pall and raised cross, even without the consent of the parish priest? To this, the Sacred Congregation responded affirmatively. From this, it is clear that, when a petition is made, the terms of the question are changed by the opponents in the case, when the precise question is: 'Whether the custom is maintained, etc., which has existed and continues to exist by the right of the parish priest of St. Lawrence, granted by the very concession of his church to the Order of the Capuchins, and sanctioned by the decree of the Ordinary of Melitensi in the year 1736.' And this has even been recognized as legitimate by the very civil magistracy of Melitensi, when it acknowledged the right of the parish priest of St. Lawrence regarding funeral emoluments. It states: 'In the present case, it is not a question of the removal of the corpse from the place of death to the place of burial, passing through an intervening parish; but directly of the removal from the parish of Conspicua to another neighboring parish of Victoriosa. And therefore, the Brief of Innocent XI of December 11, 1676, the decision of the Sacred Congregation, Epistoles et Regula, of November 25, 1713, and other acts concerning the rights and privileges of parish priests, of intervening parishes, cannot in any way be applied here.' With these considerations, the following questions were proposed: I. Whether and within the boundaries of which parish is located the street of St. Margaret in this case? II. Whether the custom in favor of

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the parish priest of Victoriosa is maintained in this case. RESOLUTION. The Sacred Congregation of the Council, after discussion on July 23, 1892, decided to respond: To I. Affirmative, in favor of the parish of Victoriosa. To II. Negative, but so that the parish priest of Conspicua may not enter the church of the PP. Capuchin.

[*Latin ed. p. 176*]

176. Of Saint Christopher of Laguna, Doubts Regarding Institution. April 9, 1892. Session 24, Chapter 1, Concerning Reforms, Matrimony. SUMMARY OF THE MATTER. In order that the Most Reverend Fathers, with the expertise of their legal knowledge, may be able to kindly respond to certain questions proposed by the Bishop of Saint Christopher of Laguna, or of Tenerife, it has been deemed fitting to insert here the letter of that Prelate. Therefore, let his words be: "From the most recent convention begun between the Holy See and the Government of Spain in the year 1851, it was established that the right of presenting certain individuals to the cathedral churches as canons belonged to the civil authority; but it sometimes happens that canons are presented by the government who lack the qualities required by law; therefore, it is evident that the Ordinary cannot, in such cases, confer institution and the canonical benefit to such individuals. Indeed, the proof of legal unworthiness is very often difficult, and often fraught with dangers; because it concerns hidden offenses, and because the matter pertains to very serious crimes, especially those which, without the greatest disgrace to the ecclesiastical order and public scandal to the people, cannot be brought before a public court, even though the unworthiness of the elected individual is clearly known to the Ordinary. With the foregoing premises, I humbly request the following resolution of doubts from the Most Eminent Fathers: "1. Can the Ordinary, in a case where he has informed knowledge, as they say, proceed in such a manner, and thus, with the unworthiness of the elected individual made manifest, deny the conferral of the canonical benefit? And, if negatively: 2. Is the Ordinary always obliged to observe the strict order of judicial proceedings, or does he have the power to proceed economically or administratively? And, if negatively regarding the first part, and affirmatively regarding the second: 3. Is an appeal granted against a judgment so pronounced economically or administratively, either to the Metropolitan, or only to the Holy Apostolic See?"

[*Latin ed. p. 177*]

177 The Disputation of Saint Christopher of Laguna presents a synopsis of a few points, as is customary, regarding the individual questions; and above all, that which might perhaps be subject to a double interpretation. Firstly, it appears that the Prelate is inquiring whether it is permissible for him to reject those presented for canonical appointments who are unwor-

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thy, using the procedure that is commonly said to be based on informed conscience; that is, whether the faculty granted to Bishops in chapter I, session 14 of the Council of Trent can also be extended to the canonical institution to a benefice. Indeed, it has sometimes been doubted whether, by virtue of the aforementioned chapter, Bishops can, outside of a judicial process, only prohibit advancement to the sacred orders, or whether even a suspension "from orders, or from ecclesiastical grades or dignities" can be imposed. However, this question has been resolved by this Holy Congregation, as testified by Benedict XI in *De Synodo Dioecesanis*, book 12, chapter 8, number 3: "From these words, namely, those of the Council of Trent, it is gathered that a Bishop, for a hidden crime, even if known outside of a judicial process, can not only prohibit a cleric from advancing to higher orders, but also forbid them from exercising the ministry of the order they have already received; although, in the second part of the decree, where the word 'suspension' is mentioned, those words are not used; nevertheless, it has always been and remains the constant opinion of the Holy Congregation that, because of the continuation of the discourse, it is to be understood as repeated, and that it encompasses both cases." To confirm this assertion, the response given to the Bishop of Aleria on November 24, 1657, as well as another dated December 16, 1730, and another of August 20, 1735, pertaining to Otranto (or Taranto), and another of March 21, 1643, pertaining to Vercelli, are cited. Furthermore, in Ferraris, *Bibliotheca Canonica*, under the word "Suspension," article 1, number 19. In addition, it is held that "many also believe that a Bishop can suspend from a benefice based on informed conscience; and where it is a question of suspension from the exercise of the order received, it seems to be a question of suspension from the benefice, as those words suggest: or who..."

[*Latin ed. p. 178*]

178 Whether Saint CHRISTOPHOR of LAGUNA was suspended from his orders or degrees, or from ecclesiastical dignities. This opinion appears to have been at least indirectly confirmed by the Sacred Congregation of the Council in one Session, June 21, 1625, and in another Session, May 8, 1848. (1) Indeed, if it is permissible for a Bishop to suspend clerics based on informed conscience from a benefice already held, it would not be inappropriate to argue that he could also proceed in the same extrajudicial manner, so that the person who is to be removed does not retain possession [of the benefice]. This is especially true when it concerns a canonry in the cathedral church, through whose acquisition an unworthy person would become a counselor to the Bishop, and would, in a certain way, be called to participate in the pastoral governance. Furthermore, it should be noted that some hold that the rule of law is that a judgment concerning the institution to a benefice rather contains an extrajudicial act, as stated by Gonzalez in *ad reg. 8 in annot. contr. nullit, num. 14*. The Rota in Cracow, Prefect of

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Saint Hilary, May 27, 1650, *cor. Bichio*, in which judgment the Cardinal de Luca, in *De iurep. disc. 51, v. 5*, states, as long as it is not a question among several presented, or of the right to present. Therefore, with this premise, the power to proceed extrajudicially, at least in several cases, does not seem to be denied to the Bishop. Nevertheless, one might object to this conclusion, arguing that the Bishop cannot use a power that does not rightfully belong to him. Furthermore, the preceding argument and the conclusion drawn from it are entirely based on an opinion that scarcely exceeds the limits of probability; hence, the power of Bishops to prevent a cleric from acquiring a benefice, although it can perhaps be defended theoretically as probable, may not be one that should be maintained in practice. Rather, it is perhaps more likely that this is suggested by the fact that the Council of TRENT, in the aforementioned canon 1, session 14, only mentions "degrees or dignities" already held, while, on the contrary, it expressly distinguishes between orders to be received and those already (1) You will find the reference in Volume XIV, 299. Records of the Congregation of Propaganda, Volume XIX, 561; where a decree on suspensions based on informed conscience is reported. The following is an appendix to the explanation of this Instruction, 563.

[*Latin ed. p. 179*]

CHRISTOPHORI DE LAGUNA received 179. Therefore, it is understood that the Holy Synod, through those words, intended to refer to "ecclesiastical orders or dignities" as benefices, as the commentator Ferraris suspected in the aforementioned passage, contrary to others; however, it does not necessarily follow that the Bishop has the power to deny a presented cleric the institution to a benefice. Indeed, from a single, explicitly stated power, it would be entirely improper to infer another power that is not explicitly stated; and in the matter at hand, if the Council had wished to grant both powers to the Bishops, it would have explicitly stated both, just as it explicitly stated the power to suspend from orders in chapter 1, session 14. Furthermore, if someone could be deprived of a benefice outside of a judicial process, this penalty would take on the nature of a perpetual suspension, which it is ambiguous whether the Bishops can inflict according to the aforementioned chapter 1, session 14. Although the Holy See has interpreted that "Chapter 1, session 14 of Trent" applies to both temporal and perpetual prohibitions and suspensions, as can be gathered from book 7 of the Decrees, page 80, the matter was reopened shortly thereafter, as can be read in book 22 of the Memorials, page 24: "However, because Bishops can abuse such power, the Most Illustrious Lords stated that it should be referred to the Most Holy [Father], to see if any measure could be taken in this matter to address the injustice and the danger. On January 27, 1583, after a report from the Congregation of the Council was presented to the Most Holy [Father] before the Most Illustrious [Cardinal] in Kolomna, His

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Holiness responded, that it should be considered whether the prohibition and suspension by the Council are perpetual or temporary; if they are temporary, the decree should not be relaxed... but if the prohibition and suspension by the Council are understood to be perpetual, then further consideration and a more thorough examination of the matter are necessary." What remained pending at that time seems, in more recent times, to have been accepted at least in practice by the Holy Office, as observed in the aforementioned Lucionen. If, in Padua on September 11, 1880, it was stated that: "(1) such perpetual and indefinite suspensions, which can be called mere deprivations, should not be imposed unless preceded by other warnings (1) Patavinarelatafuit Vol. XIV, 292.

[*Latin ed. p. 180*]

180 Saint Christopher of Garz, concerning the solemn formalities prescribed in Session 21, Chapter 6, regarding reforms. To this is added the fact that the canonical institution granted by the Bishop appears entirely similar to that granted in the case of patronage, and which, unless it is established that the candidate is unworthy, cannot be denied. Therefore, in order that no injury be done to the rights of the patrons, and in the case, so that the agreement initiated in the year 1851 between the Holy See and the Queen of Spain may be strictly observed, great caution must be exercised in such cases. Indeed, if it were permitted to Bishops, without judicial proceedings or based on informed conscience, to reject those candidates whom they consider unworthy from the canonical institution, access to questions with civil authority would generally be precluded, and then perhaps reasons of prudence would claim precedence over legal ones. However, as mentioned above, the proposal made by the Bishop of Tenerife might also be interpreted in another way. If those words, "and if the unworthiness of the candidate is made manifest, the canonical institution of the benefice may be denied," suggest that this is the mind of the Bishop, namely, that a priest presented for a vacant canonry, having been suspended from the exercise of his office based on informed conscience due to a hidden crime, and thus having become unworthy by such punishment, may be prohibited from obtaining the canonical institution. In that case, the suspension, if it has been carried out through the proper legal channels, would seem to be upheld; but it is not entirely certain whether this would constitute a sufficient reason for denying the institution of the benefice. Furthermore, given that the suspension would bring a stigma of infamy upon the candidate, Garcia, in *De Beneficiis*, page 7, chapter 8, states that infamy of this kind does not suffice to remove the right acquired through nomination to the benefice. Regarding the remaining questions, the following observations have been made. It is known that the Sacred Congregation of Bishops and Regulars issued an Instruction in 1880 for ecclesiastical courts, concerning the manner of proceeding economically in disciplinary and criminal cases

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involving clerics. Although it does not expressly state that the power to proceed summarily is granted to Bishops.

[*Latin ed. p. 181*]

Saint Christopher of Laguna, 181. In the cases concerning which the Archbishop of Tenerife writes, it should be held that these, at least implicitly, are also included there, and that the common legal principle "where the reason is the same, the legal disposition should be the same" can be applied. And indeed, since Saint C. issued the aforementioned Instruction, "having carefully considered the present condition of the Church, which almost everywhere prevents it from exercising its external action concerning ecclesiastical matters and persons," it seems that he also intended to offer assistance to Ordinaries who are in the condition described by the Archbishop of Tenerife. Otherwise, it could not be said that there are lacking reasons by which the power to proceed economically could be extended. In the aforementioned Instruction, chapter 42, it is written: "When an appeal is presented from the sentence of a diocesan court to the metropolitan, the Archbishop follows the procedure prescribed in this Instruction for the knowledge and decision of the cause." From this, it follows that, even in a process conducted economically, an appeal can be made to the Metropolitan. And indeed, it is a matter of a true judgment, from which, unless otherwise expressly provided, appeal from a lower judge to a higher judge is always granted, whether by civil or canon law. Having briefly considered these questions concerning what has been proposed, the Eminent Fathers were asked to resolve the following doubts: I. Whether and how an Ordinary, in a case, can proceed, as they say, according to informed conscience, and thus deny the canonical collation of a benefice, given the manifest unworthiness of the elect. And whether this is permissible. II. Whether it is permissible for a Bishop to proceed economically in a case, and whether this is the case. III. Whether an appeal can be made to the Metropolitan in this case from a sentence rendered in an economic process. RESOLUTION. The Sacred Congregation, after discussion on April 9, 1892, decided to respond as follows: To I: Negatively. To II and

[*Latin ed. p. 182*]

182 St. CHRISTOPHER of LAGUNA III. Affirmative; according to the form of the Instruction of the Sacred Congregation of Bishops and Regulars of the year 1880. (1) From which the following are deduced: I. Bishops cannot reject those presented for benefices who are deemed unworthy, by employing a procedure that is commonly said to be based on informed conscience, in order to demonstrate their unworthiness. II. However, in these cases, bishops are given the faculty of proceeding economically, according to the form of the most recent Instruction of the Sacred Congregation of Bishops and Regulars of the year 1880; by which an appeal is

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granted from a broad judgment to the Metropolitan. III. Clergy presented for benefices, whose unworthiness is demonstrated by a judgment based on informed conscience, cannot be rejected; because such a penalty would take on the nature of a perpetual suspension; which superiors are not lawfully able to impose, unless they precede it with the solemnities of law, even through an economically conducted process. BARCHINONEN. FACULTY OF BINDING. July 23, 1892. By summary prayers. SUMMARY OF THE CASE. The parish priest of SS. Gervasius and Prothasius and of the Blessed Virgin Mary under the title of Bonanova, in the diocese of Barcelona in Hispania, approached the Most Holy Prince, stating the following: "His parish, which is very extensive, consists of more than seven thousand souls, and for their spiritual service, there are only two priests assigned, namely the parish priest and his coadjutor; and although there are two priests assigned to the aforementioned parish, they are already advanced in age, and it is not sufficient that the holy sacrifice be celebrated here as often as it ought to be, so that all the faithful may conveniently and properly fulfill this grave precept; therefore, it is necessary frequently to seek..." (L) In the aforementioned Instruction, Volume XIII, page 324.

[*Latin ed. p. 183*]

BARCINONA. There are 183 priests, so to speak, in the city, who, by their cooperation, might be able to remedy such a deficiency. But since this is a very burdensome matter for the parish church, on the one hand, and very precarious, on the other; for it has often happened that, when the temple of the Lord is filled with the faithful to hear Mass on a feast day, such an external priest, expressly called upon to celebrate Mass at the appointed hour, either does not appear or arrives late, so that, especially during the summer months, when the number of the faithful increases, many do not hear Mass, and the commandment is not fulfilled with great sorrow by the speaker; and if it is true that there are four churches of religious women where Mass is celebrated, only those who are nearby can attend, and Masses are celebrated at times convenient for the communities. Furthermore, the Christian Brothers' Congregation is established in the aforementioned parish, and, by virtue of its foundation, they are obligated to bring the boys to the parish church, for the purpose of hearing Mass. And since it is difficult for all the faithful to fulfill the commandment, due to the small number of priests on the one hand, and the very widespread distance on the other, the speaker earnestly requests Your Eminence to grant the grace that two priests, namely the parish priest and his assistant, or any other priest designated by the parish priest, may be able to celebrate Mass together on feast days, notwithstanding the Masses that can be celebrated in the aforementioned four churches of religious women. The Bishop, in response to the request, testifies, first, that everything presented by the speaker is to be considered certain, and then proceeds: "Furthermore, the

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parish of St. Gervasius, mentioned above, is worthy of attention, since it comprises nine thousand souls, who are spiritually fed by the parish priest, assisted by one assistant priest and two other priests residing there, and whose territory extends for a space of one hour and fifteen minutes from east to west and three-quarters of an hour from north to south. Moreover, such distances present a difficulty for the faithful to fulfill the commandment, due to the small number of Masses that are usually celebrated in the parish church, and this difficulty is increased by the fact that, while some go to hear Mass, others must remain at home to perform domestic duties. In addition, the parish church is narrow, accommodating only plus or minus one thousand faithful.

[*Latin ed. p. 184*]

184 BARCELONA. It is possible to contain [the faithful], so that, although there were no cause given for the distance [from the church], because of the narrowness of the church, the faithful could not fulfill the precept of Mass. This necessity increases during the summer months, when the inhabitants of the town are commonly counted as 14,000, while many of the citizens of Barcelona are transferred there for recreation, enduring the summer heat. "Indeed, within the limits of the aforementioned parish, there are six public chapels belonging to religious houses, where the sacred rites are performed daily, and therefore the faithful can go to those places to hear Mass; but since these are small, they do not entirely alleviate the difficulty. Nor can the priests celebrating there be compelled to celebrate in the parish church on feast days, since of the aforementioned chapels or churches, three belong to monasteries, and the others to colleges of religious sisters, who, as it were, maintain a cloister. And finally, external priests cannot be called, since those in their own churches are generally occupied on feast days, and no one is free except for an extraordinary fee, which that parish cannot afford, to provide that service outside the city." "From what has been said, it is clear that if in the petition of the parish priest of St. Gervasius the same circumstances do not concur as are assigned in the aforementioned Constitution *Declarasti*, at least circumstances equivalent to these are found; therefore, having in view that in this present time of religious indifference it is necessary to easily fulfill the precepts of the Church, I consider the petitioner's prayers to be worthy of consideration, and it seems most fitting that two of the four priests of the aforementioned church of St. Gervasius should celebrate Mass twice on feast days, notwithstanding the Masses that are celebrated in the public churches or private chapels there, as has been granted to two other parish priests in this diocese for similar reasons."

DISCUSSION: THE GRACE SEEMS TO BE DENIED. Furthermore, it is known that priests used to repeat the Mass on the same day in earlier centuries of the Church, because of the demand of their small number of

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faithful, as is stated by Cardinal Bona in *Rer. liturg.*, book 1, chapter 18, § 1 and following, by Thomassin in *De vet. et nova eccl. discipl.*, part 3, book 1, chapter 72, § 3, and by Bex.

[*Latin ed. p. 185*]

BARCELONA. 185. Decrees, XIV. Concerning Synods, dioceses, book 5, chapter 8, section 8. However, with the passage of time, abuses had arisen, and therefore, the aforementioned faculty was first limited in the Council of Salegunstodiense, and then by Leo IV. Innocent III, in chapter "Consuluisti," and Honorius III, in chapter "Te referente," concerning the celebration of Mass, forbade any other repetition, except for the feast of the Nativity of the Lord and for reasons of necessity; which necessity must be such that no other means of assistance can be found. Indeed, such a necessity does not seem to be verified in this case, since the speaker himself obscurely indicates that one or more priests can be found from the same city, as he asserts that it is necessary to frequently seek priests "walking about" in the city, and that the sacred rites are performed in four monasteries, although at times more convenient for the religious families. Nor does the requested faculty seem to be justified by the distance, since this would not be diminished by the possibility of celebrating Mass twice, because it would not be celebrated in other, different and closer churches, but in the same parish church. A dispensation seems to be warranted. However, on the other hand, it seems to be possible to draw attention to the Canon, "Sufficit de consecrat," dist. 1, and chapter "Consuluisti," cited above, which states that Mass can be celebrated twice on the same day, if necessity compels. It is certain that a parish priest, who is in charge of two churches, can, with the permission of the Bishop, celebrate Mass in both churches on the same day. Gonzalez in the cited chapter "Consuluisti," n. 2, Pirhing in book 3 of Decretals, title 41, section 1, p. 2, and Benedict XIV in "De sacrif. miss," title 3, chapter 5, n. 1, and the Constitution "Declarasti Nobis," all state this. And since the same holds true in law where the same reason exists, perhaps the aforementioned legal provision could be applied to our case, since at least the reasons presented by the speaker could be considered equivalent. Indeed, in this matter, the reason of distance is not insignificant, and does not seem to be without weight, since the parishioners, tired from their journey, would benefit from the favor, which would allow them to more easily fulfill the precept of attending Mass; but also because here, the church itself seems to be in a state of distress, which can barely contain a thousand faithful, while the number of parishioners reaches 9000, and in the summer months, it increases to as many as 14000. However, it does not seem that this difficulty truly exists.

[*Latin ed. p. 186*]

186. It is not fitting for a city to lack a priest who is not attached to

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any particular church or chapel, for the Bishop observed that neither can he be compelled to perform sacred duties in a parish church, nor is the parish structure sufficient to bear the burden of paying an extraordinary stipend. Having considered these matters, the question was raised as to what should be answered in prayer. RESOLUTION. After considering the matter, the Sacred Congregation on July 23, 1892, decided to respond: Regarding the faculty of saying Mass for a single Mass only, under the existing circumstances, it is left to the judgment and conscience of the Bishop. FROM THE SACRED CONGREGATION OF RITES in NEAPOLITANA. Decree concerning the Beatification and Canonization of the Venerable Servant of God, Francis Xavier Mary Bianchi, a priest of the Order of Clerics Regular of Saint Paul, the Barnabites. CONCERNING THE DOUBT: Whether, with the approval of virtues and two miracles, it is safe to proceed to the solemn Beatification of the Venerable Servant of God? In the life and conduct of the Venerable Francis Xavier Mary Bianchi, this shone forth most clearly, and he excelled as a chain of all Christian perfection, as Augustine warned, drawn forth from faith, as from the head, and finally emerging in the supreme act of charity, through a varied context of the most beautiful virtues. Therefore, he was rightly beloved by God and by men, useful to many, especially in the harsh times in which he lived, namely, the age between the upper and our own; and his memory was blessed, and his fame grew so much that the Cause for his Beatification and Canonization was legitimately instituted. In which, after proper investigations which were drawn from ordinary and apostolic processes, the Blessed Pope Pius IX issued a solemn decree on the 7th of March, in the year 1857, concerning the heroic virtues of the Venerable Francis Xavier. Another decree, of the same year, on the 8th of April, the Most Holy -

[*Latin ed. p. 187*]

From the Sacred Congregation of Rites, 187. Our Lord, Pope Leo XIII, solemnly decreed that two miracles had occurred after the death of the aforementioned individual, and that these had been brought about through his intercession. Therefore, for the proper completion of the cause, it was necessary to inquire: whether the venerable Francisco Xaverio, among the blessed in Heaven, could be granted the honors of beatification in the Church. Wherefore, in the general Sacred Congregation of Rites, before the same Most Holy Lord, in the Vatican buildings, on the sixth of May of that same year, the Reverend Cardinal Lucidus Maria Parocchi, Bishop of Albano Laziale, Relator of the Cause, proposed the following question: Whether, with the approval of virtues and two miracles, it is safe to proceed to the beatification of the Venerable Servant of God, Francisco Xaverio Maria Bianchi? And all the present Reverend Cardinals and Consultors gave an affirmative answer. His Holiness, before deciding anything in this matter of such importance, said that it was necessary

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to seek heavenly guidance from God. On this very day, when the joyful celebrations of the Nativity of the Virgin Mary are held, after the offering of the propitiatory Host, seated on the noble throne in the Vatican hall, in the presence of the Reverend Cardinals Caietano Aloisi-Masella, Prefect of the Sacred Congregation of Rites, and the aforementioned Lucidus Maria Parocchi, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, He solemnly decreed: That it is safe to proceed to the solemn beatification of the Venerable Francisco Xaverio Maria Bianchi. This decree was ordered to be promulgated, and to be recorded in the Acts of the Sacred Congregation of Rites, and that Apostolic letters, in the form of a Brief for Beatification, should be issued whenever it is to be celebrated, on the sixth of September of the year 1892. C. CARD. ALOISI-MASELLA, Prefect. L. S. VINCENTIUS NUSSI, Secretary.

[*Latin ed. p. 188*]

188 FROM THE SACRED RITUALS OF ROME. Decree of Beatification and Canonization of the Venerable Servant of God, Father Anthony Baici, a priest of the Society of Jesus. CONCERNING THE DOUBT: Whether, with the approval of virtues and two miracles, it is possible to proceed safely to the solemn Beatification of the Venerable Servant of God? The Venerable Anthony Baldinucci, who, moved by the divine Spirit, acted with strength and gentleness, relinquished all things, and closely followed Christ, and through long labors of evangelization, brought many from the path of perdition to the path of salvation; it is truly wondrous how throughout his life he was increased in the gifts of grace by the Lord Christ, and how he was splendidly crowned with glory and honor before men. From the year 1717, when he passed into the blessed realm, his fame of sanctity flourished more and more each day, so that the cause of his Beatification and Canonization was begun before the Congregation of Sacred Rites; and after legal proofs were duly taken and expended, it was declared that his virtues had reached the heroic degree, by the solemn decree of Pope Pius IX on January 5th of the year 1874. Then, by another decree issued on April 8th of the following year, the Most Holy Lord Pope Leo XIII, with his supreme authority, declared that two miracles, wrought through the intercession of the Venerable Anthony, were established by God. It remained to be discussed whether the Venerable Servant of God could safely be enrolled among the Blessed. This matter was proposed by the Most Reverend Cardinal Raphael Monaco La Valletta, Bishop of Ostia and Velletri, Relator of the Cause, in the general Congregation of Sacred Rites, before the same Most Holy Lord, in the halls of the Vatican on May 6th of the present year; and all, both the Cardinals Prefects of the Sacred Rites, and the Consultor Fathers, responded with unanimous suffrage in the affirmative. The Most Holy one considered it necessary to offer prayers,

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so that he might obtain heavenly assistance in forming a judgment on so grave a matter. On this very day, the feast of Mary's Nativity, after the Eucharistic sacrifice had been celebrated, entering the noble hall of the Vatican and seated on the pontifical throne, before the Most Reverend Cardinals, Caietano Aloisi-Masella, Prefect of the Congregation of Sacred Rites, and the aforementioned Raphael Mo-

[*Latin ed. p. 189*]

189 From the Sacred Congregation of Rites in Valletta, and also from Father Augustine Capram, Promoter of the Holy Faith, and myself, the undersigned Secretary, it was decreed: That it is permissible to proceed to the solemn Beatification of the Venerable Servant of God, Father Gerard Maiella. And this decree is to be made public and recorded in the Acts of the Congregation of Sacred Rites, and that Apostolic Letters, in the form of a Brief for Beatification, are to be issued whenever it is deemed appropriate. VI idus September, in the year 1891. C. CARD. ALOISI-MASELLA, Prefect. L. é s. VINCENT NUSSI, Secretary. MURANA, or COMPSANA. Decree of Beatification and Canonization of the Venerable Servant of God, Father Gerard Maiella, a lay professed member of the Congregation of the Most Holy Redeemer. REGARDING THE DOUBT: Whether, with the approval of virtues and four miracles, it is permissible to proceed to the solemn Beatification of the Venerable Servant of God? The gift of Divine grace, which surpasses all other riches, from which the faithful servants of Christ possess and safeguard all the treasures of true wisdom and knowledge, arranged admirable ascents in the heart of the Venerable Gerard Maiella. Who, despite his humble condition in life and his short age, did not accomplish anything of great significance in the eyes of men; but, with silent and diligent study, he observed the precepts and counsels of the Gospel, in which the highest wisdom and knowledge are contained. From his blessed death, which occurred in the year 1757, the fame of his virtues spread ever more widely, and the Cause of the Venerable Man began to be considered in the Congregation of Sacred Rites, and with each proper examination of the documents from the ordinary and apostolic processes, the blessed Pope Pius IX solemnly declared him to be of heroic virtues on VI idus June, in the year 1877. Subsequently, through another decree issued on VIII calends April of the following year, concerning four miracles obtained through the intercession of the Venerable Gerard, by the grace of God.

[*Latin ed. p. 190*]

190 FROM the Sacred Congregation of Rites, having considered the heavenly honors to be granted to the aforementioned Venerable Servant of God, the following was decreed. This proposal having been presented by the Most Reverend Cardinal Miecislaus Ledochowski, Relator of the Cause, at a meeting of the General Congregation of the Sacred Rites, held on the

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sixth of May at the Vatican, before the Most Holy Pope Leo XIII, and the Most Reverend Cardinals, and the Consultor Fathers, a favorable vote was given. However, the Blessed Father, in this matter of such importance, postponed expressing his opinion, intending to first implore a greater grace of heavenly light. Therefore, on this day, consecrated to the most blessed birth of the Virgin Mary, the Host of praise being offered, entering this more noble hall of the Vatican, and seated on the throne, with the Most Reverend Cardinals Caietano Aloisi-Masella, Prefect of the Sacred Rites, in place also and on behalf of the aforementioned Cardinal Ledochowski, and also the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, present, he declared: That the process may proceed to the solemn Beatification of the Venerable Servant of God Gerard Majella. And he ordered that this decree be made public and recorded in the Acts of the Sacred Rites Congregation, and that Apostolic Letters, in the form of a Brief for Beatification, be issued whenever it is to be celebrated, on the sixth of September in the year 1892. C. CARD. ALOISI-MASELLA, Prefect. L. S. VINCENTIUS NUSSI, Secretary.

DECREE OF BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, LEOPOLD A GAICHIS, PRIEST, OF THE ORDER OF MINOR FRIARS, OF THE REFORM OF SAINT FRANCIS.

ON THE QUESTION: By what miracles is it established, in this case and to the effect of which we are speaking? Following the example of the great Apostle Paul, the Venerable Leopold a Gaichis could rightly assume and declare: "We are the good odor of Christ to God" (II Corinthians 2:15). For, at various times,

[*Latin ed. p. 191*]

From the Sacred Records of her life, spanning eighty-three years, whether living within the cloister or moving among people, she excelled in piety towards God, charity towards her neighbor, in the spirit of humility and penance, so that she reflected the Lord Christ in herself and emitted a good fragrance, widely spreading glory to God. She achieved this most notably in apostolic missions, which she undertook in great number, even during the most difficult times, during the upheaval of public affairs at the close of the preceding century; unyielding in her labors, nor deterred by threats and persecution, she persevered steadfastly in this ministry for fifty-four years, a zealous imitator of St. Leonard of Port Maurice, with great zeal for souls and abundant fruit. Such a fragrance of virtues earned the name of this saint among all. Adorned with this common renown, she peacefully rested in the kiss of the Lord in the year 1815. And as this fame grew daily from the miracles which were attributed to her intercession, the cause of her Beatification was begun before the Sacred Congregation of Rites, and she shone forth with heroic virtues. Blessed Pius IX solemnly declared this on the Ides of February in the year 1855. Then, concerning

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two miracles attributed to her intercession, a threefold examination was conducted according to the established procedure. The first was held before the Most Reverend Cardinal Thomas Martinelli, Relator of the Cause, in a preparatory meeting on the III Ides of March in the year 1858; the second in the Vatican buildings on the XVII Calends of October in the year of Our Lord 1891, in the preparatory meeting; and finally, on the VI Calends of May of this year, before the Most Holy Pope Leo XIII, in the same Vatican buildings, where the Most Reverend Cardinals and Fathers Consultors of this Sacred Congregation were gathered in a general assembly, and each gave his vote. The Most Holy Pope declared that it was very pleasing to him that the cause of the miracles of the Venerable Man, towards whom he had always felt piety, whom he had only seen once in the diocese of Perugia, was being presented before him, especially since the abundant fruits received in the region of Umbria still speak of them; he also expressed his confidence that the judgment would be in accordance with the wishes of all of Umbria and of the Franciscans. However, he postponed his judgment, and in the meantime, he recommended that heavenly assistance be sought. On this very solemnity of the Nativity of Our Lady, after the offering of the Sacrifice of the Mass without blood, as she entered this more noble hall of the Vatican, she ordered that the Most Reverend Cardinal Caietan Aloisi-Masella, Prefect of the Sacred Congregation of Rites, be summoned.

[*Latin ed. p. 192*]

192 From the Sacred Congregation of Rites, in the place and stead of the Most Reverend Cardinal Charles Laurence, Promoter of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and with those present, a solemn decree was issued, stating that two miracles are established, namely, the first: the instantaneous and perfect healing of Angela di Re from a cancerous ulceration of the stomach; and the second: the instantaneous and perfect healing of Candida Buechi, a widow, from the most acute meningitis, followed by a spinal affliction. And this decree was ordered to be published and recorded in the Acts of the Sacred Congregation of Rites, on the sixth day before the Ides of September, in the year 1892.

C. CARD. ALOISI-MASELLA, Prefect.

L. & S. VINCENTIUS NUSSI, Secretary.

[*Latin ed. p. 193*]

193 LETTER from Our Holy Father Leo XIII to the General Superior of the Society of Jesus. Beloved son, health and the Apostolic blessing. By the suffrage of the Fathers, who are rightly assembled in this memorable birthplace of the lawgiver, We have received, through the first electrical

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communication, and then through letters sent by you on the very same day, after the Kalends, that you have been elected Superior of the Society of Jesus; and this has brought Us no small joy. Indeed, beloved son, that divine plan concerning you was in some way foreseen by that most prudent man to whom you succeed; for having perceived that you were well suited to govern the Society, he had long ago invited you to join the administration, and, as your laws prescribe, he designated you to serve as his vicarious. Therefore, with such a clear manifestation of God's providence, trusting in His divine will, may you place and strengthen your hope in Him day by day: namely, that the Society, which strives so greatly for the greater glory of its name, will, as always, most generously support you, and will certainly provide you with special help in the performance of this difficult task at a difficult time. Indeed, as you know, We have always been deeply devoted to the Society of Jesus, with whom We are also bound by a bond of grateful affection; and recognizing its many merits for the Church, and its utmost obedience, zeal, and devotion to this Holy See of Saint Peter, We promise, even more in the future, to support you, as its leader, and We await [your leadership]. We again implore God to grant more abundantly that heavenly light, which We have requested for you and for each of your companions through Our prayers, so that all that remains to be deliberated and decided among you, who are assembled in the Lord, may proceed rightly and happily, according to your prescriptions. Finally, beloved son, and to the entire Society, We impart the gifts of the Apostolic blessing, with paternal charity, as you earnestly requested. Given at Rome, near Saint Peter, on the 12th of October, in the fifteenth year of Our Pontificate. LEO XIII, POPE. Acts, Vol. XXV, page OCXQII, 13.

[*Latin ed. p. 194*]

194 FROM THE HOLY CONGREGATION OF THE COUNCIL OF MARSEILLES. ON THE NULLITY OF MARRIAGE. July 23, 1892. Session 24, Chapter 9, Concerning Reformed Marriages. Wulfranius Canaple entered into marriage according to the Catholic rite in Marseilles, in the church of Saint Charles, with Eleonora Verminck; but after a period of cohabitation, more or less interrupted, of almost fourteen months, he informed the woman by letter of his definitive separation. Upon receiving this aforementioned notification, Eleonora returned to her father's house, and her father immediately petitioned for a civil divorce for his daughter, which he easily obtained. Subsequently, acting with perverse counsel, the woman, having joined herself to a man belonging to a schismatic sect, entered into a civil marriage with him, and conceived a child from this nefarious union. With the passage of time, on December 10, 1887, the woman presented a petition to the Bishop of Marseilles, in which she declared herself penitent for the scandal she had caused, and simultaneously requested that the marriage she had contracted with Wulfranius Canaple be declared null,

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on the grounds of coercion and fear, suffered at the hands of the man, and therefore, on the basis of the lack of consent of the aforementioned man. However, in the legal proceedings instituted before the court of Marseilles concerning the alleged nullity, the Vicar General, delegated as judge for this cause, after considering the results of the proceedings, and other matters to be considered in law, pronounced an adverse judgment against Eleonora on November 3, 1891, declaring: that it could not be determined that the marriage was null on the grounds of coercion and fear, nor on the grounds of a lack of consent or of the sacrament. SUMMARY OF THE FACTS.

[*Latin ed. p. 195*]

MARSEILLES. 195. A Synopsis of the Argument: DEFENSE OF A WOMAN ACTRESS. The advocate, therefore, primarily argued that nothing should be done, and indeed, that the contrary should be advised, and the reason that most moved the mind of the Marseilles judge was: "the obligation to avoid scandal, which would result for the faithful," especially considering "the civil law of divorce." He notes that it must not be confused with a divorce a declaration of nullity of a marriage that was, in fact, invalid; which is confirmed by the authority of the Holy Roman Church in the instruction addressed to the Eastern patriarchs, published on June 20, 1883. He adds that in a matter as particular and truly lamentable as this, there are circumstances that concur, so that from such a declaration, not only would scandal be avoided, but indeed, the good of many souls would certainly be promoted; especially since there is great hope that the man, to whom the woman is civilly bound, and who is legitimately united, might be brought to the true religion, as the woman herself states in her pitiable booklet. Furthermore, he says, the other reasons for the decision are of no importance compared to the aforementioned judgment; and he demonstrates this by explaining the circumstances of the case, both preceding, concurrent, and subsequent, as they are deduced from the judicial records. First, he proves with numerous witnesses that Wulfran's behavior before the marriage was habitually irregular and scandalous. Furthermore, Wulfran, at the time of the marriage, was burdened with debts. Therefore, the advocate continues, Wulfran's family vehemently desired, and spared no effort, to "encourage Wulfran to enter into marriage with a wealthy young woman." This, he says, is not only very natural, but is positively confirmed by witnesses, whose words he quotes, and which could not be denied by the defender of the marriage before the court of Marseilles; indeed, he even admitted that Verminck, the woman's father, although for a different reason, had greatly

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desired such a marriage.

[*Latin ed. p. 196*]

196. MASSILIEN. Therefore, the aforementioned Canaple family, in order to achieve the desired outcome, requested in marriage, under the name of Wulfrani, Eleonora from her father, Verminck, who readily agreed. This is confirmed by the testimony of Frederick Bohn, Charles Hornbostel, and also of Julius Roux. However, the advocate noted that, according to Roux's testimony, it was quite evident that Wulfran had never seen Eleonora before. Moreover, it is certain that the betrothed had never spoken to each other, as expressly testified by the aforementioned. Therefore, if one listens to the advocate, Wulfran, whose licentious way of life was already quite incompatible with a respectable marriage, after having seen Eleonora up close and having conversed with her for a time, became even more determined in his intention not to enter into marriage. For Eleonora, in fact, was entirely displeasing to him; indeed, she was even repugnant, as Roux testified. Furthermore, the advocate considers it not only plausible, but entirely true, that what the witness Hornbostel observed is correct, namely, that Wulfran had initially hoped to be rejected by Eleonora or her parents, and thus be freed from all annoyance on the part of her family. For, while he showed no sign of affection towards the bride, he not only did not change or even conceal his most deplorable way of life, but openly displayed it. However, contrary to Wulfran's hopes and wishes, things happened in such a way that, as it were, his negative, or rather, his reluctance, proved to be ineffective, and he began to act positively against the marriage. Therefore, unexpectedly, he fled, and informed his family of the matter by letter sent to his brother. Moreover, Wulfran not only departed, as he wrote, "for an unknown destination," but he also departed with another woman, whom he was pursuing in a scandalous affair. This fact, the advocate said, confirms more and more Wulfran's protestation, and more clearly demonstrates his aversion to marrying Eleonora; for, to desire to be with one woman is to not wish to marry another, according to what has been handed down by Barbos.

[*Latin ed. p. 197*]

MARSEILLE. 197 votes in favor, decision, book 2, volume 16, number 30, by the Sacred Roman Rota in decision 326, number 8, before Ludovisi, etc. Subsequently, Verminck, the father of Eleonora, who, as the witness Genovefa Madon stated, "had made of this marriage a matter of personal affection," considering his own family to be disrespected, was consumed by anger; and first, he used threats, and then, even prayers and entreaties, in order to absolutely compel Wulfran to enter into marriage with his daughter. If, however, the extreme measure was not immediately taken, it happened because Julius Roux and Charles Canaple undertook the burden of per-

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suading Wulfran to contract marriage with Eleonora. Having stated these things, the advocate argues that Wulfran's freedom was truly violated, so that his marriage with Eleonora, hastily contracted, is null and void: because, indeed, in this case, not only was there a grave fear, suitable to terrify even the most steadfast man; but also, there was true force, or physical violence, inflicted by two against one. And first, it is clear, according to the advocate, that a grave fear was present in this case, because Wulfran was threatened with disinheritance and expulsion from his own family. To prove this, he says, the testimony of Julius Roux alone would suffice, who stated that Wulfran was threatened "that he would be ostracized from the family." In this matter, he says, it would be permissible to have no doubt about the knowledge or the probity, or the veracity, of this witness. Indeed, it has been established, he says, that such testimony, even alone, fully constitutes proof, especially in these cases, as expressly taught by the Sacred Roman Rota in decision 870, number 6, before Emeriz - there - "Although the witness is the only one, both because he is a priest and a mediator, and because his statement is supported by several conjectures, with which concurring, the witness, even if the only one, fully proves, especially in the case of fear, which is the most difficult of proofs, since it consists of a passion known only to God." Furthermore, he adds, in the aforementioned case, this testimony is not only...

[*Latin ed. p. 198*]

198 MARSEILLES. This is wonderfully corroborated by countless conjectures and the sum of all the facts, but it is also confirmed by the testimonies and oaths of other witnesses. For, he states, Wulfran wrote to Eleonora on November 18, 1884, regarding the definitive separation, and subsequently, in letters also sent to the Marseilles Tribunal, he entirely confirmed the following: "I could not resist the orders that were given to me in the name of my mother, and which exposed me to consequences that such resistance would have entailed for me." This is also confirmed by Charles Pellen. Indeed, he concludes, such a threat of disinheritance and ostracism from the family, even by itself alone, is more than sufficient to instill a grave fear in Wulfran. For if the threat of execution had been made, Wulfran, who at that time was already "burdened with debts crying out" and "had spent his share of the paternal inheritance, having received considerable advances from his mother," would have been cast into the most miserable state of poverty, into absolute and utterly unbearable ruin. Therefore, the advocate argues, nothing could have been more frightening to Wulfran than such a disinheritance and ostracism, or rejection by his own family; so that the threat of death would have been less terrible to him. Furthermore, he notes that, in general, the fear of losing all or a large part of one's possessions is, in law, equated with the fear of death; and that its threat is considered suitable for instilling fear in a reasonable man. To

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prove this, he cites the words of Barbosa, *votum decisum*, book 2, vote 16, number 33 and following, as well as the Holy Rota in *decisum* 870 *coram* Emeriz, number 3. And, above all, he observes that, according to the common doctrine of canonists, reverential fear is sufficient to invalidate a marriage, even without a threat; for these fears are implicitly present, and the evils to be feared, by disturbing, take away freedom, as Barbosa states, *votum decisum*, book 1, number 36, Cardinal Consci de separatorum, book 3, chapter 5, number 78 and following, and the Rota in...

[*Latin ed. p. 199*]

MASSILIEN. 199 dec. 491, n. 8 cor. Bogas, nec non Emus D'Annibale, Summ. theol. Mor. part. III, § 315, Proh § 38, 15. Sed vero, inquit, concedi nullatenus potest minas ex parte matris in casu non intercessisse. Ipse Iulius Roux, quod putat esse sedulo notandum, negare non est ausus minas nomine matris illatas fuisse Wulfranio, sed negavit tantum intercessisse minas ex parte M. Verminck. Nec referre, autumat, utrum mater revera mandatum inferendi hasce minas dederit, nec ne. Sufficere contendit minas, eius nomine illatas fuisse easque Wulfran veras putasse; in hoc enim non nisi patientis opinio attenditur, prout etiam Romanorum iure statutum erat, teste Haimberger, « dritto rom. prie. lib. 1, cap. 4, § 89 », cui consonat Schmalzgrueber in tom. 4, part. 1, tit. 1, § 313, et S. Rota, quae in dec. 870 coram Emeriz haec tradit: « sufficit metus reverentialis, iuncto periculo mali gravis, probabiliter opinati ex sola parentis indignatione, ut firmat Garz. etc. ». Quin imo, addit, vel sola suspicio veritatis minarum aut indignationis matris satis fuisset ad incutiendum metum matrimonium irritantem. Ita sane docet Cosci de separ. tori lib. 3, cap. 4, n. 87 - ibi - « matrimonium est nullum, sive consensus deficiat propter minas et violentias, sive propter suspicionem tantum indignationis parentum ». Et Rota cor. Ludovisio decis. 374, n. 7 - ibi - « Iusta metus suspicio sufficit pro metu. Bald. cons. 165, lib. 2, ex eo quod in matrimonio animus debet esse liber non solum a compulsione, sed etiam a timore compulsionis ». Quapropter maxime verosimile existimat, ipsam, cuius iam valde intererat, ut matrimonium contraheretur, et quae insuper a M.r Verminck, sponsae patre, rogata fuerat «d'agir » de toute sa puissance maternelle auprès de son fils et de » l'amener à contracter le mariage », et minas expressisse et mandatum eas Wulfranio indicendi ultro dedisse. Sin minus nimium naturale putat, Wulfranium minas nomine matris sibi illatas veras putasse, ab iisque perterritum fuisse. Vix autem respondendum esse, ait, ad ea, quae a Massi-

[*Latin ed. p. 200*]

200. MARSEILLES. The arguments presented by the judge reveal that it is contended that the fear instilled in Wulfran was not unjust, because, according to the law, "he could be reduced by the mother to the reserved

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portion... the civil code and the unworthy conduct of his son gave her the right." First, it is recalled that a partial disinheritance was imposed, which, although different from a total and absolute ruin, nonetheless amounted to a complete exclusion from the family, "that he would be ostracized from the family." Then, it is noted that mothers have no right to threaten their sons, however unworthy, to force them into marriage with a particular person; rather, they should strive to guide their sons' conversion. Furthermore, the advocate continues, beyond the grave fear, Wulfran suffered real harm. It is recalled that Julius Roux and Charles Canaple, already greatly angered, had set out "in search of Mr. Wulfran Canaple," and that they found him only after three days of an uncomfortable and laborious journey. Moreover, it is easily understood that, given their indignation, it grew more and more intensely, day by day, and even hour by hour. Therefore, when they finally found Wulfran, and he was clinging to a very dissolute woman, it is better conceived than described what fury they unleashed upon him, and what they did against him. Indeed, in such a case, it is more important to consider what they did and said, than what their eyes and entire demeanor expressed. Moreover, it is recalled that Mr. J. Roux confessed, both before the Marseilles court and, when given the opportunity, before others, that he not only frightened Wulfran with threats, but also, seeing him with his hands outstretched, forced him. This public testimony and reputation of such violence inflicted upon Wulfran is strongly confirmed, according to Charles Pellen. The same reputation, at least in its essential aspects, is testified to by the Reverend Castellan. Indeed, it is clearly established, as far as public opinion and reputation are concerned, in the proof of violated liberty.

[*Latin ed. p. 201*]

MARSEILLE. 201. In such judgments, Barbosa teaches in *de iuribus*, volume 2, decision 16, number 54, that "public opinion and reputation" are "very considerable in proving coercion": to which Menochius, in *de praesumptionibus*, book 3, preface 4, number 21, agrees. Thus, in the case of *Caepolus*, in council 2, number S..., and *Alexander*, in response 504, number 5, etc. Finally, the defender observes that the very defender of the marriage could not have opposed anything to what had been reported about the physical violence "inflicted upon Wulfram," as the defender himself recalled. Given these circumstances, it is now justly concluded that Wulfram was compelled by force and fear to enter into the unwanted marriage with Eleonora, and therefore the marriage itself was truly null. The defender adds that, up to the time of the marriage, the force and fear persisted, not only as it is presumed by law, but as is clearly demonstrated by all the circumstances. And indeed, if Wulfram, after having been subjected to fear and violence, had changed his mind and freely consented to the marriage, he would certainly have had to offer some excuse, after his return,

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to Mr. Verminck, and especially to Eleonora, or at least he would have had to show some sign of affection to Eleonora. But, on the contrary, the facts are as follows, as demonstrated by the sworn testimonies of Julius Roux, Frederick Bohn, Charles Hornbostel, and Elizabeth Tock. Not only, he says, in his actions or manner of acting, but as much as possible, Wulfram also manifested his aversion to the marriage, after his return: as testified by Berta Baudoin. After these points, the plaintiff seeks to demonstrate that Wulfram behaved during the very celebration of the marriage in such a way that it was clear to everyone that he had been forced by force and fear to attend that ceremony. He first cites the witness brought in by the defender of the marriage, namely Anthony Guichard, who attended the marriage. Secondly, he presents the testimony of Julius Roux, who, after stating that he attended the marriage celebration, added: "his attitude was offensive." And "It was impossible not to notice the bad mood of Mr. W. Canaple, his..."

[*Latin ed. p. 202*]

202. MARSEILLE. "A calculated strategy, the silence he maintained in all circumstances regarding Mademoiselle Verminck, even after the marriage." And "He was gracious to everyone, except to his wife." From these points, the advocate then seizes the opportunity to address the difficulty that might arise from the fact that, as is said, Wulfran is not naturally timid. Recalling the principle of logic "from being and possibility, no inference is made," he concludes: since it is established that Wulfran was truly afraid, it is rightly inferred that he could have been frightened. Furthermore, he adds, the very witnesses who claim to believe that Wulfran has a spirit not timid towards outsiders, nevertheless testify that he was able to, and indeed did, fear the indignation of his own mother and the bad consequences that might follow. Thus, Frederick Bohn and Elizabeth Tock. He notes that in these judgments, one or two witnesses testifying to fear are to be believed more than a thousand concerning spontaneous will, as the Doctors unanimously state, and this provides the best explanation of the matter. Thus, Mascardus, *De probatione?!*, vol. II, Conclusion 1055, n. 1 - ibid. - "Fear is more readily established by witnesses affirming it than by those denying it; therefore, the Doctors hold that it is more to be believed when two witnesses testify to fear than when a thousand deny it or assert free will. Thus, Innocent [V] adds: "Following the previous opinion, as being the more common and more in accordance with reason, since fear can more easily be detected than free will, you will consider it to be true even if only one witness testified to fear, because they are to be believed more than a thousand denying it or affirming free will." Panimollius, in *decisiones*, 102, year 1, page 375, Barbosa, *Vota decisa*, lib. 1, vote 1, n. 84, *Rota coram Ludovico*, Dec. 326, § 26, etc., also agree. He further notes that this discipline of the law is much more effective in the case where many

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testify to Wulfran's fear and coerced will, and no one can truly contradict, and all the evidence wonderfully supports this. Then, the advocate returns to demonstrating Wulfran's actions.

[*Latin ed. p. 203*]

MARSEILLE. The celebration of the marriage manifestly demonstrated aversion to marriage from the very beginning, and Elizabeth Tock, who was present at both marriage ceremonies, testifies to this. Furthermore, she notes that Wulfran so clearly demonstrated his aversion to the marriage and his absolute unwillingness to enter into it with Eleonora, even during the religious ceremony itself, that rumors spread that he had not actually given his consent, but had substituted another word for the sacramental word "volo" or "oui," namely "present." The orator states that, from the events that followed the marriage ceremony, it can be further proven that this is the case, bringing the evidence to a high point. After the marriage ceremony was completed, Wulfran undoubtedly showed signs of his aversion to his wife, as the woman herself reported. Moreover, the advocate points out that the testimony of this witness must be considered of the greatest importance. Firstly, he says, it cannot be presumed that she, who fled to the authority of the Church solely for the sake of her own conscience, would affirm a falsehood under oath. Furthermore, in her entire testimony, all the marks of truth and sincerity are evident. Indeed, she does not dare to affirm anything unless it is absolutely certain to her. Moreover, she stated that things that had escaped her memory, even though related by others and useful to her, she treated as if she had never seen them, or had learned of them in some other way. Finally, Wulfran himself, although he knew the truth, especially from the judgment of divorce already pronounced by a secular tribunal, confirmed everything that Eleonora had testified against him, not only without being affected by it, but absolutely and completely. Furthermore, the advocate says, several other witnesses have testified the same things, or even more serious things, regarding this matter. He states that Wulfran declared to his friends immediately after the marriage, namely "qu'il était toujours garçon," and that this was further confirmed by his actions, which were publicly known from day to day, until he finally carried out the plan of a definitive separation. Finally, the advocate notes that there was nothing in Eleonora's character that would have led her to act...

[*Latin ed. p. 204*]

204. MARSEILLES. It might have been possible to challenge, or at least to excuse to some extent, the actions of Wulfranius. However, Wulfranius's brother wrote that he possessed all the qualities of mind most suitable for gaining affection and love, and therefore excelled in every way. Therefore, the orator concludes that it is entirely to be excluded from the nature and conduct of a woman that she should be the cause of an unhappy marriage.

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Furthermore, he states that it has now become even more evident that the cause was none other than that which Wulfranius incessantly, both publicly and privately, interposed. Or, in other words, the cause of this brief and most sorrowful cohabitation was, without a doubt, that impediment of force and fear, which was most wisely introduced, namely, because Wulfranius was compelled into marriage against his will, and "because forced marriages are usually unhappy in their outcome." To explain how all of this happened, the orator also recounts that Wulfranius at that time had already been ensnared in the snares of an unchaste woman; and, using the words of Holy Scripture, Ecclesiasticus, chapter VII, verses 26 and 27, and Proverbs VII, 10-12, he states that it is very difficult for a man to free himself from such snares. Finally, the orator points out the conspicuous dowry of Eleonora and the almost exhausted state of Wulfranius, which, he says, made it seem to the Massiliensi official that his thesis, or rather, the coercion of Wulfranius, was strongly confirmed. Indeed, he says, given the conspicuous dowry of Eleonora and the weakened condition of Wulfranius, everyone can see that it is most credible that Wulfranius was compelled into marriage by those relatives who had an interest in the marriage, as many affirm. The orator also suggests that it is not unreasonable to doubt whether the marriage was consummated, as it appears that Frederick Bohn and Maria Rarnbanne, Eleonora's companions, allude to it. But even if, he adds, the marriage was consummated, it does not necessarily follow that it was not purged of the defect of nullity, by which the marriage itself was afflicted. For even before the Council of Trent, as is clear, it was necessary to be ratified by the act of consummation.

[*Latin ed. p. 205*]

MARSEILLE. 205. It was held that a marriage begun by force and fear required several conditions, the first and absolutely necessary of which was that the union should have been followed by conjugal affection, as Sánchez states, *De Matrimonio*, Book 6, Disputation 18, number 1. Indeed, he continues, after what we have seen above concerning Wulfrani's affection for Eleonora, it would be almost impossible not to mention it: and he asserts that the accuser was surrounded by few people, because many witnesses testified in many words, when she said: "He was never affectionate. He treated me like any other woman." But the accuser considers these words to be said almost for emphasis; for after the Council of Trent, which decreed that marriages could only be contracted in the presence of a priest and witnesses, a marriage is not in any way considered valid by a subsequent agreement, but must be contracted again, observing the form prescribed by the Council, as is stated by the Sacred Congregation of Councils in *Panormitana* concerning the nullity of marriage, September 30, 1719, *Thesaurus Resolutus*, apud Liverzani, volume 1, page 241, which is cited by Giraldi, *Ius Novissimum*, paragraph 1, section 658, in

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the note, the Sacred Roman Auditorium in decision 900 before Seraphin, Fagnanus in chapter *De illis II De despons. im.pub.*, number 13, Barbosa *De Officiis Episcop.*, allegation 32, 149, and the decision, book 2, volume 17, number 178, Schmalzgrueber, volume 4, paragraph 1, § 40, etc. Finally, the accuser believes that it must be carefully noted that a marriage begun by force and fear, and therefore without free consent, is not only invalid according to positive law, but is absolutely lacking in the very substance of the contract; Sacred Rota, decision 315, § 3, before Ludovisi. Therefore, he argues, when it is a question of the nullity of a marriage due to lack of consent, even if some doubt remains, preference must be given to freedom, Barbosa, volume of decisions, book 1, number 137, and the Sacred Roman Auditorium, before Rogas, decision 291, number 20. However, the accuser maintains that there can still be absolutely no doubt about the nullity of the marriage, since all the preceding, concomitant, and subsequent circumstances irresistibly demonstrate the husband's dissent.

[*Latin ed. p. 206*]

206 MASSILIEN. OBSERVATIONS OF THE DEFENDER, MR. VINCULI. Mr. Vinculi, the defender, concedes that the witnesses presented by the plaintiff could easily demonstrate that Wulfran, when he took a wife, acquired his wealth through luxury and licentiousness; that Wulfran's mother, his brother, and even his relative, Julius Roux, considered Eleonora, being the wealthiest, to be the most suitable wife for him; that Wulfran was so preoccupied with his immoral pursuits that, rather than being captivated by a genuine love for Eleonora, he approached the marriage, situated between the girl's considerable dowry and the allure of prostitution, in such a way that he seemed to value money more than virtue; – but at the same time, he argues that the same witnesses did not demonstrate that Wulfran was afraid; indeed, they clearly stated that he was Wulfran, who is not easily moved by fear. In short, there is room for doubt, namely, regarding the true purpose for which Wulfran entered into the marriage; and therefore, it must be said from the opposing side that to exclude one or both of the three goods of marriage, namely, the sacrament, faith, or posterity, is to undermine the very nature of the marriage. For: "It is certain that marriage is not invalidated by any perverse purpose, which is not contrary to the substance of the marriage itself, and which does not impede the three aforementioned goods, and which remains the proper purpose of marriage, even if no thought is given to it, because by the very fact that they intend to contract marriage, unless they expressly exclude the proper purpose, they intend it implicitly." This would be the summary of the entire case, both in fact and in law. For all the facts presented by the defense to demonstrate that the marriage was valid, would show only that Wulfran took Eleonora as his wife in order to restore his diminished fortune; and if any other actions are mentioned, they are either irrelevant

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to the truth or have nothing to do with the present case. In the first place, however, the patron of the plaintiff has not correctly interpreted the words of the witness, Julius Roux, who stated that he had requested Eleonora in marriage at the urging of Wulfran's mother, implying that this was done without Wulfran's knowledge, in order to create suspicion that Wulfran was opposed to the marriage from the very beginning; for...

[*Latin ed. p. 207*]

MARSEILLE. 207. The witness himself immediately adds that Wulfran had taken steps to avoid seeing Eleonora, and that he knew that his request had been accepted: for indeed, that very evening he departed for Caute rets. However, the witness is entirely mistaken in contradicting the truth, when he affirms that Eleonora had not pleased Wulfran in the first meeting between the betrothed, that she had, on the contrary, displeased him entirely, and even that she had horrified him; and yet, neither Julius Roux, who was absent, nor anyone else testifies to this. Although the aforementioned witness says: "He (Wulfran) often expressed to me the disgust he had for his wife, who, he said, filled him with horror," it does not refer to the first meeting of the betrothed, but to the sorrowful times of the couple's last cohabitation, that is, the tenth month after the marriage, when Eleonora's father had refused to give Wulfran two hundred thousand livres. Furthermore, it is wrongly concluded from the fact that, shortly after Wulfran had spoken with Eleonora and discussed marriage, he "departed for Biarritz" and that "he was accompanied by Mademoiselle H., a singer from the opera comique," that "to wish to be with one woman is to wish not to marry another," as stated by Barbos, vol. decis. lib. 2, v. 16, no. 14, by R. Rotam in decis. 326, no. S, cor. Ludovisi, etc. For the Advocate adds that neither Barbosam nor Rotam considered anything similar in this case. Barbosam speaks of a certain Nicholas, who rejected Eleonora Mary, whom his father had promised to him in marriage, because he desired another woman, whom he sought to have presented to his father for marriage, excluding the first; and therefore, the cited passage correctly argues: "To wish to marry another woman was to wish not to marry the woman Eleonora." A very similar case is discussed by Rotam in the cited passage, when Wulfran never intended to marry the young woman H. (the singer), and moreover, he frequented others. It is also objected that Wulfran, before leaving the town of Caute rets, wrote to his brother Charles: "I am not made for marriage. It is better..."

[*Latin ed. p. 208*]

208 MARSEILLES. To abandon this project now would be to postpone it indefinitely. I am setting out for an unknown destination; I beg you to inform my mother." As soon as Wulfranius had written this, the act was carried out through coercion or fear: for those who suffer violence, if they

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can escape, they do not warn of the authors of the violence or fear, but quietly depart. Meanwhile, it must be remembered that Wulfranius had squandered his possessions with prostitutes, and therefore, through the aforementioned letter, he did not refuse the marriage, but sought to ensure that the marriage would bring great wealth to his father, Eleonora. There is no doubt that Wulfranius handled the matter with great cunning. Indeed, Carolus Canaple and Julius Roux, without delay, reported Wulfranius's plan to Eleonora's father, who was first astonished and saddened that Eleonora's virtues had not restrained Wulfranius: but he did not abandon hope. On the contrary, he was certain that Wulfranius would easily be persuaded, if he were convinced that such a marriage would be most advantageous to Eleonora's wealthy father. Therefore, he himself charged Carolus Canaple and Julius Roux to present their most ardent wishes to Wulfranius. This is confirmed by the Defender from the testimony of Elisabeth Tock and Julius Roux, to which Helen Pignol adds. Regarding Wulfranius's understanding, as asserted by Julius Roux, the Defender argues that Julius's account of Wulfranius's opulent marriage to Eleonora, which he outwardly abhorred, contradicted the very act itself; but if Wulfranius had not feigned, it would be impossible to believe that a man of 27 years, accustomed from his earliest youth to resist the will of his parents and to oppose everything and everyone, would have resisted Julius Roux and Carolus Canaple, let alone dared to open his mouth before them. But, the orator continues, Wulfranius had not experienced being repelled by force, because "he was seized by the shoulders... and he realized that he had no choice but to submit"; however, it should be noted that the marriage did not take place immediately, but three weeks later, during which time Wulfranius enjoyed complete freedom. For, after Julius Roux and Carolus Canaple had taken Wulfranius to Marseilles, they performed their duty...

[*Latin ed. p. 209*]

MARSEILLES. Two hundred and nine were estimated to have perished, and therefore they immediately departed, offering neither violence nor threats, and did not interfere with the marriage in any way; indeed, not a word about marriage escaped from their mouths. Therefore, the defender maintains that the fear instilled in Wulfranius could not, in any way, serve to invalidate the marriage, as is established by the decision of the Rotunda before the Rat, no. 149, para. 2, which he cites in its entirety. Nor can the objection be raised here: that once fear has been instilled, it is presumed to last forever; for, as Barbosa teaches in his decisions, book 1, no. 104, it must be limited to the duration of the same cause of fear, or the same circumstances. However, it has already been noted above that Wulfranius was not in the custody of Julius Roux and Charles Canaple until the celebration of the marriage, but only from Biarritz to Marseilles; and therefore, three weeks had passed before the marriage, during which Wulfranius was completely

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free. Furthermore, the defender continues, not one of the witnesses asserts that the cruel Verminck had communicated his plan to Wulfranius. Rather, the defender says, the laughter was provoked by Eleonora, as she sought to persuade, and that Wulfranius was induced to marry by his mother, either through threats of disinheritance, or through the instilling of a reverential fear. Indeed, from the group of witnesses, in whom the actress places her confidence, no one has ever seen or heard Wulfranius' mother threatening her son with disinheritance, nor has anyone seen her urging the celebration of the marriage with insistent prayers. Although, the defender adds, it is useless to argue about threats of disinheritance; for Wulfranius had already possessed the paternal inheritance, and had also received a portion of the maternal inheritance, as testified by Charles Hornbostel, and he never feared that he might be deprived of the remaining portion of the inheritance by his mother, since civil laws do not allow parents to disinherit their children at will. Furthermore, it is acknowledged that Wulfranius had a legitimate dowry, which was hidden; and therefore, it cannot be overlooked in all the other matters, as Contrad, Vol. XXV, fasc. COXCII, no. 14.

[*Latin ed. p. 210*]

210. Massilien wishes to suggest that Wulfran could have been deprived of the remaining portions of his maternal inheritance. For, having accepted a small sum, Wulfran, by refusing marriage, would not have suffered a loss that is presupposed by right, but would have merely lost the hope of obtaining a profit. This is far from being an unjust fear, nor a fear that would cause a steadfast man to fall, as Pontius teaches in book 5, chapter 5, number 10, concerning marriage. There, he writes: "Furthermore, I believe that the fear of losing profit, or an inheritance, or a benefit that one hopes to receive from someone, to which one has no right, does not cause a steadfast man to fall, and can be justified by law."

Moreover, the defender argues that the fear of reverence cannot be attributed to Wulfran without irony, adding that the accuser, furthermore citing Instruction of the Holy Office of June 20, 1883, § 36, ironically compares the present case to it, and challenges the opposing party to bring forward their insistent requests or threats, which Wulfran's mother supposedly used. Indeed, concerning requests and persuasions, if they existed in reality, they would have been: "His mother (according to Julius Roux) was content to simply ask him to finally behave properly, and not to cause his family so much worry. The idea of getting married was suggested to him, and he allowed himself to be led to marriage." And there is no other witness who, besides these, knows anything relevant to the matter. As for threats, the accuser asserts that Julius Roux threatened Wulfran, saying that "<he> would be ostracized from the family." To this, the defender replies: "I cannot deny, without being uncivil, that these words may have

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been spoken by Julius Roux or by anyone else at some time. However, no one among the presented witnesses heard them. Furthermore, Julius Roux only testifies to these things implicitly."

But if Julius Roux testifies: "There were neither threats from Mr. Werminck, nor coercion from Mrs. Canaple, his mother," the defender asks, would this be the same Wulfran who would be moved by threats hurled at him? And, considering his character and his way of acting, he concludes negatively. And so...

[*Latin ed. p. 211*]

MARSEILLE. He states that it is evident from the fact that Wulfranius only considered a forced marriage at that time, having lost all hope of obtaining two hundred thousand livres from his father-in-law, and that he immediately decided to bid farewell to his wife, and proceeded directly to his mother's house, where he still lives with his mother and brother. After these remarks, the defender of the marriage recounts the essential conditions necessary for a valid fear, even a subjective one, in the case of a man, using the words of Sabellius (Summa Diversarum, tract. § De Metu, n. 3); and he asserts that none of these conditions are verified in the case of Wulfranius. However, he considers it unnecessary to elaborate on each of these conditions, since: "every fear which is not endowed with these five conditions is not serious with respect to the one who experiences it." Schmalzgrueber, *Jus Canon. Part. 4, tit. 40, n. 3. Therefore, he touches upon only the fifth condition; namely, that "<the one who is afraid cannot easily avoid the evils that he fears>;" and he asks whether Wulfranius, during the time that elapsed between the moment of his fear and the celebration of the marriage, was able to do anything to dispel that fear. If he was able to dispel the fear in any way, and did not do so, then the fear was not just, as Angelus states (verb. de Metu, n. 5): "Let it be imputed to him who could easily have avoided the evil, if he did something because of that fear." Here, the defender reproaches Wulfranius for having wanted to warn his brother and mother when he fled from the town of Cauterets; for having been captured and apprehended in the town of Biarritz; "for he said absolutely nothing... he did not open his mouth during the entire journey," as Elizabeth Tock testified. Therefore, he concludes that it is not surprising that Wulfranius, who had chosen the proud dowry of Eleonora and the immense wealth of his father as the reason for entering into the marriage, when he realized that he would not be able to enjoy either his father-in-law's wealth or the fruits of the dowry, wrote letters to his wife containing insults against his father-in-law. Furthermore, he argues that Wulfranius's letter should be considered completely invalid, because, according to L. 3, § 3 and 4, ff. de testib., cap. 2, which concerns those who can be witnesses, etc., one must believe the testimonies, not the witnesses. This rule was introduced

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to prevent...

[*Latin ed. p. 212*]

212 MARSEILLES. concerning collusion: furthermore, in the present case, the defender argues, he who does not see collusion is blind. Indeed, according to him, "Wulfranius' mother and brother, and also the parents of Eleonora, did not appear for that reason, because they feared that they might contradict each other, having been drawn to give testimony by the Judge. To demonstrate that the proofs presented are to be considered of little value, the defender cites the decree of the Rotunda, number 149, § 1, before Ratto, and also the Instruction of the Holy Office of June 20, 1883, § 39; and he maintains that all exceptions to adverse actions are contained in this, namely, that Wulfranius did not present any evidence of a flagrant love affair with Eleonora; and that this did not prevent Wulfranius from visiting Eleonora officiously every day, and from receiving her, on the day of the wedding, with a large company of friends, into a festive marriage. Finally, the defender of the sacrament observes that Wulfranius, for almost ten months, until the time when he had good hope that he could rely on the very wealthy dowry of his father-in-law, desired nothing more than that his wife should behave properly, and that he had not even dared to say, even in jest, that he had entered into the marriage reluctantly; but that after he was deprived of this hope, because in the beginning of the month of July 1884, his father-in-law refused him two million livres, then he began to proclaim that he had been forced into the marriage. As for Eleonora, she should not be heard, because in a letter addressed to the judge, dated in February 1891, after the process had been published, she stated that Wulfranius had told her "from the beginning of the marriage" that he had been forced into the marriage. The defender observes that this assertion is diametrically opposed to what the very Eleonora confessed in the judicial examination, and especially to the aforementioned account of events written by Eleonora. With these things noted, the purpose was to examine whether the sentence of the Episcopal Court of Marseilles should be confirmed or overturned in this case.

[*Latin ed. p. 213*]

213 RESOLUTION. The Sacred Congregation, after deliberation on the matter discussed on July 23, 1892, decided to respond: The opinion is to be confirmed.

FROM WHICH THE FOLLOWING ARE GATHERED:

I. Among the other conditions required, according to law, for fear to be considered valid in a constant man, is that the one fearing must not be able easily to avert the evils that he fears are imminent.

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II. It appears that the fear could have been easily dispelled during the time that elapsed between the instilling of that fear and the celebration of the marriage.

III. For if the fear could have been dispelled, and it was not, who should be held responsible for the evil that could have been easily avoided?

IV. Marriage is by no means invalidated by any perverse end; provided that this perverse end is not contrary to the good of the sacrament, or of faith, or of procreation: for he who contracts marriage, unless he expressly excludes the due end, intends it by virtue of the very act, even implicitly.

V. Even if a large dowry of the woman was in the man's mind as the end to which he looked, it does not invalidate the marriage, since he did not expressly exclude any of the three goods of marriage; therefore, the due end of marriage remained, and the marriage is valid.

VI. The fear of losing a profit, or an inheritance, or a benefit that one hopes to receive from someone, to which, however, one has no right to the thing, does not invalidate the marriage in a constant man.

MASSILIEN. GALTELLINO. PAROCHIAL RIGHTS (1) April 9, 1892. Session 24, chapter 18, regarding the aforementioned.

CONTINUATION OF THE CAUSE. The facts of this controversy were related in the Congregation's records on June 27 of the preceding year, and the following questions were formulated by the parties involved: E.E.P.P. proposed: (1) The aforementioned question, Volume XXIV, page 97.

[*Latin ed. p. 214*]

214 GALTELLINOREN. I. Utrum ius administrandi Baptismum et custodiendi libros baptizatorum debeat manere ad capitulum, vel ad canonicum curatum in loco. II. Utrum capitulum, praeter functiones capitulares, habeat ius committendi alternative uni vel alteri ex canonicis, cum assistentia beneficiariorum, celebrationem aliarum functionum, scilicet missarum festivarum vel defunctorum, novendialium vel triduanarum precum, processionum, etc., et ut stolae fructus inde percipiantur in loco. III. Utrum canonicus curatus iure distincto frui possit in defunctorum exequiis, capitulo assistente, et utrum a capitulo vel a canonico curato perficiendae sint rituales absolutiones in loco. IV. Utrum beneficiarii vulgo domieri ita dependeat a canonico curato, ut ab hac dependentia exturbari nequeant a capituli archipresbytero in loco. V. Utrum ipsi beneficiarii teneantur coadiuvare canonicum curatum in Evangelii praedicatione et in catechesibus instructionibus in loco. Ad huiusmodi dubia, ita in praefatis comitiis, E. E. P. P. rescribendum esse censuerunt: Ad 1. Dilata et coadiuventur probationes de usu capituli constante, et, nullo reclamante, administrandi Baptismum et retinendi libros baptizatorum. Ad 2. Affirmative, dummodo non agatur de functionibus et iuribus mere parochialibus. Ad 3. Si agatur de exequiis parochianorum, praecedentiam spectare ad canonicum curatum ra-

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tione stolae, et rituales absolutiones spectare ad eumdem ratione muneris; si vero agatur de aliorum exequiis, omnia spectare ad capitulum, scilicet praecedentiam et rituales absolutiones. Ad 4. Affirmative, quatenus agatur de cura animarum. Ad 5. Affirmative, dummodo parochus sit impeditus. Nunc igitur quaestio redit non modo quoad primum dubium, cuius resolutio in suspenso mansit, sed etiam quoad tertium et quintum, pro quibus Capituli patronus novae audientiae beneficium obtinuit.

[*Latin ed. p. 215*]

GALTELLINO, REN. 215. SYNOPTIC DISCUSSION. DEFENSE OF THE CHAPTER. He who defends the positions of the Chapter again argues that the right to administer baptism and to keep the records of the baptized pertains to the Chapter, as it arises from a habitual care and insofar as it has reserved this in the dismissal of its actual care. He states that there is no legal impediment to such a reservation, and he believes that the example of the Chapter of the Vatican, mentioned below, should be cited. Then he affirms that the following facts have been established: 1. From the retention of the keys to the baptistery "in the direct administration," as witnesses testify, which is a circumstance that outweighs any exception; 2. From the obligation to receive the confessions of the faithful, both in the cathedral and elsewhere, which, without the presumption that the canons have assumed this responsibility, cannot be supposed; 3. From the fact that the former canon, the parish priest, has seen the canons, without any permission from him, indeed quite independently, administering baptism daily and keeping the records of the baptized, without ever objecting; 4. From the very manner of acting of the current parish priest, who immediately succeeded the former and who, for a period of 23 years, has frequently seen the canons doing this, and yet has not made any protest or offered any opposition; 5. Finally, from the fact that the Archbishop Bua, the author of the institution of the new canon, having seen all of these things that are in dispute, has never disapproved of what the Chapter was doing. Furthermore, it should not be presumed that the patron, considering these matters to be of no small importance, remained silent, unless it was clear to him that what the Chapter was doing arose from an agreement. Moreover, it is to be remembered here the long-standing observance, both in its interpretative aspect, and in its presumptive aspect, and finally in its prescriptive aspect, which is entirely favorable to the Chapter, the force of which, among other things, is found in the document of Marsorum, dated January 30, 1830, in which, regarding the question: "Has the Chapter reserved the right to baptize children and to keep the keys to the baptistery and the Oil of the Catechumens?" the Sacred Congregation [of the Holy Council] responded

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most judiciously: "Affirmatively, according to the form of custom."

[*Latin ed. p. 216*]

216. GALTELLINOREN. This observance, and others indicated above, are demonstrated anew by the words of the present Prelate concerning the asserted agreement, as well as by the testimony of the episcopal chancellor and the decree of the Apostolic Administrator of the year 1879, documents which are already known to the Most Reverend Fathers. He then adds the deposition of three senior priests, who have been devoted to the service of the cathedral church for many years, from which it is gathered that: 1. In the cathedral church, there exists a designated place, common to all, where, besides the keys of the baptistery, the baptismal registers are kept; 2. Each canon, as before, disposes of the key of the baptistery and the baptismal register, and, as before, administers baptism to newborns, independently of the parish priest and without his permission, so that neither the former parish priest, nor the current one up to the year 1879, has objected to this; 3. In the year 1879, the Apostolic Delegate Murra, while the current parish priest was in office, dared to seize the key of the baptistery and the baptismal register, and ordered that the key and the register be returned to their customary place; 4. Finally, the canon, while occupied with the administration of baptism, was present in the choir, and therefore was not subject to any objections, and indeed, the current parish priest has never made any complaint at any time. Furthermore, refuting the objections raised, the speaker denies that, as ordered by the Prelate, the baptismal registers in use at that time were required by the parish priest, "who until now had kept them." Indeed, the cited testimony does not speak of registers that "were in use," but of those that "were already completed and out of use," which were received by the parish priest to be kept by the Curia, along with others that were not in use. Furthermore, he likewise proclaims the opposite of the truth, claiming that the canons, with regard to the past, administered the sacrament of Baptism without the permission of the parish priest, until the year 1879, when the general vicar of the Bishop, daringly broke and damaged the baptismal font, to the astonishment of all. Indeed, all these cited testimonies refute this, and are presented in bad faith.

[*Latin ed. p. 217*]

GALTELLINOREN. 217, and that these were brought forth, according to the speaker, to cause confusion. Proceeding then to the second part of his oration, the patron of the Chapter argued that the right to the stole, the right of precedence, and the right to perform the ritual absolutions at the funerals of the deceased, pertain to the Chapter, both by virtue of the habitual care residing within it, and by force of ancient custom, and therefore, with regard to the second doubt, he requests that the Most Reverend Lords deign to recede from their previous decisions. Furthermore, he

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argues that the habitual care was denied to the Chapter after the Gregorian Constitution, and he seeks to demonstrate this in several ways. First of all, he recalls that the Archbishop of Bua, appointed Apostolic Administrator, established that the Chapter should retain its actual care, "retenendo la cura abituale," and that the Chapter, under this condition, readily agreed to the erection of a parish. However, he demonstrates that this was precisely done according to the Constitution of the Supreme Prince, through the words of the executive letters: "Therefore, since the actual care of souls, as mentioned in the aforementioned Apostolic Letters of restoration of the Bishopric, has been entrusted to the archpriest and to the entire Chapter, from now on and forever, we exempt the archpriest and the Chapter." Furthermore, a certain part of the pastoral care is reserved to the Canons there, concerning the receiving of the confessions of the faithful and the preaching of the divine word, and whenever they are engaged in these duties, they are considered to be present with the choir, just like the parish priest. It should not be argued from these things that the Chapter was not explicitly granted the habitual care, as it should have been, by the Apostolic Administrator. For, besides the fact that, if not expressly, it should nevertheless be tacitly understood, the speaker emphasizes that this would be contradicted by the Apostolic Administrator himself, either in a compromise reached with the Canons, or in a letter given to the Chapter, in which he declared that he had strictly observed the conditions proposed by the Chapter, in the execution of the Bull. However, despite all this, the confession of the current parish priest seems to settle the matter. Indeed, in a letter dated September 7,

[*Latin ed. p. 218*]

218 GALTELLINO, REN. In the year 1874, before the Chancellor of the Bishop, it was argued that a certain canon theologian, to whom an indult had been granted by the Sacred Congregation to abstain from the choir during the Lenten season and to dedicate himself to preaching, was wrongly challenging this, because the care [cura] habitually resided with the Chapter, and by virtue of this, each canon was obliged to hear confessions. Since it is well-established in canon law that "no greater proof is given than the confession of one's own lips," it would be superfluous to add anything further. Therefore, the speaker argues, it is not surprising that the canons, relinquishing the actual care [cura actualis], have reserved for themselves the same right in the funerals of the parishioners, a right that they previously enjoyed in these very funerals, whenever invited by the heirs of the deceased. This, he maintains, does not contradict the law in any way, and, among other things, the example of the Chapter of the Basilica of the Vatican is cited, where, although the actual care of souls is exercised by a vicar, nevertheless, for this very reason that the habitual care resides with the Chapter, each member of the Chapter has the right to instruct

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the parishioners in catechesis, to bring the Eucharist to the sick, especially on the principal feasts of the year, and also to administer the sacrament of Baptism. From this, the speaker points out that the resolutions of the Sacred Congregations, which are readily cited to the contrary, and other authorities, from which the right to wear the stole and to perform ritual absolutions for the deceased parish priest is derived, are irrelevant. Indeed, in the case of a deceased parish priest, the Chapter is the one who has the care, and therefore, to attribute disputed rights to it, either by reason of office or by reason of the stole, would not be contrary to law. Nor would this be new or foreign, since the Sacred Congregation itself has sometimes held this view, as in the case of *Marsorum Iurium parochialium* of January 30, 1830, and in *Oritana* of September 22, 1877. Avanzini, referring to the latter case in the journal *Acta S. Sedis*, Vol. II, page 248, believed that these general principles could be derived from it: "1. In Chapters of Cathedrals and Collegiate churches, the care of souls can be found, by foundation, to be with the canons..."

[*Latin ed. p. 219*]

GALTELLINOREN. 219: The present arrangement is divided in this way: so that each member has a habitual care, while one member has an actual care for its exercise. 2. It does not seem to infringe upon the right of the Chapter, to which the care of souls belongs, if it reserves certain rights from the beginning, while appointing one member to exercise the actual care. 3. Therefore, in the functions and rights that it reserves for itself, the Chapter is to be considered as its own parish priest; so that each member may properly exercise the care of souls with regard to those functions and parochial rights reserved to it.

Furthermore, the patron seeks to demonstrate that the reservation of certain rights in the matter existed, from the words: first, in the schema of the new canonical institution for the parish, proposed by the Apostolic Administrator, where it is stipulated that the emoluments attached to burials and subsequent offerings should be distributed among the canons, whenever the Chapter intervenes in funerals; second, more clearly from the Chapter's letter of August 22nd, sent to the Archbishop of Bua, in which the Chapter reserved the right to perform the last rites, when invited to attend to the burial; and finally, from Article VII of the executive decree, which states: "Having removed from the archpriest... the care of souls of this city... all other rights, burdens, honors, privileges, prerogatives, which belonged to him as before, by law or by custom, we decree and declare that these also shall henceforth belong to the same archpriest." Therefore, the patron argues, it cannot be said that the present controversy cannot be resolved by the Gregorian Constitution. "Indeed," he says, "if it can be deduced from the distribution of emoluments, as it truly can be deduced, that the canonical priest is considered not as a priest, but as another canon, when

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the Chapter intervenes in funerals, then it follows from this very fact that that function is considered not as a parochial function, but as a canonical or chapter function, and therefore it must be carried out by the Chapter in the same way as it has been carried out until now."

Furthermore, it is noted that a compromise was present, according to which the questions raised by the parish priest were to be resolved. And if, from the distribution of emoluments,

[*Latin ed. p. 220*]

220 GALTELLINOREN. An argument can be deduced to demonstrate that these funeral rites do not constitute a parochial function, but rather a capitular one; it cannot be denied that the words are lacking which indicate that they are to be understood as pertaining to the funeral rites of the parishioners. For, having admitted that a discussion is taking place concerning funeral rites in general, it must be said that the words should be interpreted in light of those which frequently occur. In the city of Norensis, where there is no other parish, external funerals occur very rarely, and it is established in law, according to leg. 4 ff. de legib, and sent. can. that laws are not established based on events that may happen in a single case, because according to leg. 59 of the same title, "the law should be adapted primarily to those things which occur frequently and easily, rather than to those which occur very rarely." Furthermore, the patron notes a clear, long-standing, and peaceful observance that is closely related to the establishment of the parish. He recalls that the Chapter was granted [certain privileges] since the year 1836, as witnessed and, as it were, approved by both the executor of the Apostolic Letters and the first parochial canon, who never opposed anything. Indeed, he states that even the current parish priest, who succeeded him in 1868, has often seen the Chapter enjoy the same rights, yet has not, in the course of approximately 23 years, made any complaint or issued any protest. These facts, the speaker continues, suggest a violent presumption that something had previously been agreed upon between the parties in this matter, namely, that the Chapter had reserved the right to carry the coffin and to perform the ritual absolutions, by virtue of the habitual care it had from the beginning, whenever it participated in funerals; otherwise, the actions of the Archbishop of Bua and the parish priests would be inexplicable. But not only does he defend the custom that has been in force since 1836, but from a much more distant time. He contends that it cannot be doubted that the Chapter exercised the aforementioned rights since 1779, when the care of souls was first entrusted to the people of Norensis. Therefore, if this observance, which is more than centenaria, and indeed, unforgettable, is alleged, then the title of "a better

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world" would already be readily available to them, as unanimously and...

[*Latin ed. p. 221*]

GALTELLINOREN. 221 Doctors and sacred tribunals speak of this. Concerning Lucca, De Can. Cap. disc. 11, n. 6. Rota decis. 962 cor. Molines n. 34. Decis. 230 n. 7 coram Marco. Decis. 522 cor. eodem n. 16, etc. The advocate believes that this truly memorable circumstance is demonstrated in this case, especially by the testimony of three priests, learned men and of advanced age, to whom the chancellor of the Episcopal Curia was added. Indeed, all of these, with one voice, testify that they have seen and have heard from their elders that in the funerals of both outsiders and parishioners, the prior always had precedence. And it cannot be argued that such testimonies can be refuted, since the memorable nature of this custom cannot be proven by witnesses. Moreover, it is affirmed that it is contrary to both civil and canonical laws. Indeed, after I. 28 ff. de probat, in leg. 1 §. 8. de Aqua, etc., the following is stated: "Labeo also says: when it is asked whether the memory extends to the work done, not just for a day, and a consul is consulted to ascertain the matter, it is sufficient if someone knows that the work was done, that is, if it is not doubted that the work was done, and it is certainly not necessary that those who remember be present, but even if someone has heard it from those who have retained the memory." And the Glossa in cap. 1 de praescript. n. 6 verb. Memoria, and also Rota decis. 933 n. 19, 30 cor. Ansaldo, concur. Furthermore, the advocate argues that this custom is established for the prior, not only in a presumptive manner, but also in a prescriptive manner, according to I. 4 Cod. De praescript. trig. vel quadrag. annor. and Cap. 6 Decret, de praescript., as has already been explained more fully in the first proposition of this cause. Finally, referring to the fifth doubt, namely, whether beneficiaries are generally obligated to assist the parish priest in the preaching of the Gospel and in the instruction of catechesis, he recalls that he has already demonstrated, both from law, from the Gregorian Constitution, and from custom, that such duties are inherent to the person of the parish priest, so that any other beneficiary should be excluded from this obligation. The Reverend Fathers, therefore, implore that the canonists present today consider the troubled and restless state of the parish priest.

[*Latin ed. p. 222*]

222 GALTELLINO. It is alleged that, not only from what has already been stated, but also from certain additional points recently presented, a certain matter arises. To prevent future disputes and scandals, it is urged that a decision be made to retract the previous ruling, or, if that is not deemed appropriate, to moderate the preceding response; affirmative, provided that the parish priest is legitimately hindered. DEFENSE OF THE CANONICAL PARISH PRIEST. On the other hand, he who has undertaken

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to defend the rights of the parish priest observes, firstly, that Chapter Two should prove the constant use of administering Baptism and maintaining the baptismal records, and furthermore, that no one has contested this usage. He contends that neither can be denied. Indeed, it appears that these very practices were, above all, encouraged by the aforementioned Bishop of Norens, who, on October 27, 1871, in a decree issued during a canonical visitation, urged the parish priest to take care that the entries in the baptismal records were complete. Moreover, the advocate argues, if the Chapter had the right to baptize and to keep the baptismal records, then the exhortation would have been addressed to the Chapter, not to the parish priest. He believes that this is also confirmed by the testimony of the episcopal chancellor, who, at the order of the Bishop, as has already been mentioned, in the year 1891, informed the parish priest that he, up to that time, had been keeping six baptismal books from the year 1866 to the year 1889. From this, he infers that even the predecessor of the parish priest kept the books, since in the year 1866 he had not yet passed away. Furthermore, it is added that in the year 1879, the Vicar General Carbone broke the lock of the sacristy door in order to administer the sacrament of Baptism, which, of course, would not have happened if the practices favorable to the Chapter had been in place. Moreover, the advocate argues that, from the testimonies presented, it is clear that permission to administer Baptism is customarily granted not by the Chapter, but by the parish priest, and that this is not granted in each individual case, but by a general delegation. Therefore, he believes that it is also the case that there is no record of such a delegation in the baptismal records. Furthermore, he reports that the aforementioned permissions often included the right to hold the key to the chest in which the books were kept, as the beneficiary Cambosu recounts concerning the canon Nieddu.

[*Latin ed. p. 223*]

GALTELLINOREN. 223 Hoc quidem non sufficit: nam documenta sunt, quae manifestant, quatenus iura, quae a Capitulo asserta sunt, omnino excluduntur. Verum est, ut dicitur, ex libris paroecialibus, quae a viceparoco cancellario episcopali traditae sunt, et quae a canonico parocho pro tempore constanter inscriptae et servatae fuerunt. Hoc etiam a praelato curiae cancellario in scriptis testari affirmatur. Praeterea, patronus judicialem depositionem exhibet, quam a testibus fidibus emissam dicit, ex qua colligitur, solum canonicum parochum et viceparochos, cum dependentia a parocho, fontes baptismales, olea sacra et claves tabernaculi, non solum custodire, sed etiam libros baptizatorum. Immo, tres testes, Zara, Fadda et Porcu, addunt, canonicos etiam veniam administrandi baptismum a canonico parocho petere solebant. Cum autem, ex doctrina Mascardi, *De proh.* vol. 1, cap. 424, n. 12, « testes super consuetudine si rationem reddant, quia sum vicinus tali loco probant », oratore magis convenit hoc in casu tenere,

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in quo testes de scientia propria deposuerunt. Nec contra opponitur, quod de venia a parocho concessa nec vola nec verbum in libris baptizatorum invenitur. Quia, ob rationem supra indicatam, id in more receptum esse in dioecesi galtellinorensi notat, et quod ita passim evenire solet, quamvis ille qui baptizat inter canonicos minime numeretur. Et hanc praxin confirmare studet, testimonium allegans sacerdotis Chironi, qui beneficiariam in Cathedrali ab anno 1849 obtinet, et qui omnium senior in chorali munere asseritur, et beneficiarii Marmu, qui cum sacerdote Chironi plane concordat. Quod si, cum munus parochiale canonico Guiso, hodierni parochi antecessore, exercente, omnes canonici baptismum impertiebant, id factum fuisse putatur ex quadam eiusdem parochi concessione, quae aliter omnibus sacerdotibus, etsi non canonicis, indulgeri solebat. Quin imo, praefatus parochus hanc veniam omnibus canonicis fuse induisse affirmat, ut animos eorum sibi infensissimos placaret. Ad quae...

[*Latin ed. p. 224*]

224. GALTELLINO. He alleges as evidence the testimony of a certain priest, Nonni, in which more details are given concerning the vexations of the Chapter towards the parish priest of Guiso, due to which the aforementioned priest had sometimes considered seeking another parish. However, given that a constant practice of baptizing and retaining records existed, favored by the Chapter, the advocate argues that, nevertheless, the parish priest could be deprived of his rights, since that which was annexed to the parochial office by the 23rd session of the Council of Trent, chapter 1, concerning the reform. Indeed, he says, the rights of parish priests are not subject to prescription, but must be inviolably observed, since they were granted to the community and not to an individual, as stated in chapter 1, question 1, cause 13. Furthermore, he recalls that the Sacred Congregation had also expressed a similar opinion, as can be seen in the documents presented in Andrien, *Iura et privilegia*, June 2, 1883, page 388, where it was noted that "centenary custom cannot be invoked, because 'the rights of parish priests are not only not lost by a custom of a hundred years, but even a custom of a hundred years cannot be opposed to them, as the Sacred Congregation has repeatedly ruled, especially in *Baren. Iura parochialium*, August 23, 1876; in *Bovien. Iura*, June 1820; in *Nullius Sublacen. Iura parochialium*, January 29, 1821, in which it is expressly stated that the rights of parish priests are to be considered sacred and inviolable, notwithstanding a custom of forty or a hundred years.'" The reason for such a canonical provision, according to what is stated by Cardinal De Luca in *De praem. dis.*, section 24, number 11, and by Amostazo in *Lib. 6 de causis piis*, chapter 3, number 38, appears to be that "a custom which contradicts sacred institutions established by the decrees of the fathers, or which introduces an abuse contrary to the discipline and freedom of the Church, is not upheld." In the matter at hand, the patron argues, the proper

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parish priest is involved, and therefore the Gregorian Constitution, along with its implementing decree, sufficiently demonstrate this. Indeed, it is decided therein that a canon should exercise the duties of a parish priest, just as any pastor of souls; from this, the advocate infers that the care of souls had been entrusted to him independently of the Chapter, and that, furthermore, the Chapter was expressly relieved of that same care therein.

[*Latin ed. p. 225*]

GALTELLINOREN. 225 After these matters have been clarified for both sides, the following questions were proposed to be examined: I. Whether the right to administer Baptism and to keep the records of the baptized remains with the Chapter, or with the canonical curate in the case. II. Whether one should adhere to or depart from the decisions made in the third question in the case. III. Whether one should adhere to or depart from the decisions made in the fifth question in the case. RESOLUTION. The Holy Congregation of the Council, having reviewed the matter, on July 23, 1892, decided to answer the proposed questions as follows: Regarding the first question: Affirmative, with respect to both. Regarding the second question: In accordance with the decisions. Regarding the third question: In accordance with the decisions, and furthermore. FROM WHICH THESE POINTS ARE DERIVED: I. There is no incompatibility in the fact that the Chapter, having relinquished actual care, but retaining habitual care, has reserved to itself the right to administer Baptism independently of the canonical parish priest and to keep the records of the baptized. II. Such a right can be acquired by the Chapter through long-standing observance, whether in a legal, presumptive, or prescriptive manner. III. Observance is the best interpreter of the law, and it claims greater authority if it is close to or contemporaneous with the law. IV. By both civil and canon law, in any cause or concerning any person, a private or public right, through forty years of continuous silence, is extinguished. V. The Chapter, which has only sent notice of relinquishment of actual care and purely parochial functions, has the right, besides the capitular functions, to exercise other functions that are not merely parochial, either directly or through others. Acts, Volume XXV, page XCII, 15.

[*Latin ed. p. 226*]

226 GALTELLINO, REN. VI. Beneficiaries obligated to assist the canonical parish priest, and who are dependent on the parish, cannot be removed by the chapter in matters concerning the care of souls. VII. These same Beneficiaries are to assist the canonical parish priest in the proclamation of the Gospel and in catechetical instruction, whenever the parish priest is hindered. FROM THE HOLY CONGREGATION OF BISHOPS AND REGULARS OF ROMA, CONCERNING THE SETTLEMENT OF CANONICAL DEBTS AND EXPENSES. The present question (1) was debated in plenary

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assemblies on March 6, 1885, and the following doubts were proposed: I. In what amount should the principal of the debt owed to the Abbot Commendatario be increased in the case? II. In what amount should the principal of the debt owed to the Hospital of Saints Charles and Ambrose be increased in the case? III. After a portion of the principal has been paid by means of the canonical payment, in what amount should the difference and the increase of the debt be settled, relating to the revenue received from the tenant? In the case? IV. Should the value of the consolidated deeds, to be assigned to the direct lords, be attributed to the year 1877, or rather to the year 1884, in the case? V. Is the tenant obligated to pay half of the laudumium in the case? VI. In what amount should the tax, commonly called the tax on movable property, be refunded to the direct lords, and are they obligated to contribute to the deposit tax in the case? The Holy Congregation of Bishops and Regulars judged it fitting to respond: To I. Affirmative, and the full amount should be paid.

(ii) Habeshancquaestionem Vol. XVIII, 136.

[*Latin ed. p. 227*]

ROME, 227th day of the month, it is to be understood that the sum [to be paid] is the maximum, with the head [of the debt] raised to the ratio of 100 for every 4 [units] of canon. Regarding II, affirmative, as in the first [point]. Regarding III, affirmative, and to complete what is due between the sums already received and the difference up to the maximum head [of the debt]. Regarding IV, affirmative regarding the first part, negative regarding the second part, and according to the understanding of R. P. B., the Secretary. Regarding V, negative. Regarding VI, affirmative regarding the first part, negative regarding the second part, and according to [the understanding of] the Sacred Congregation. Having been informed that August Mancini, invested with the Prefecture, after receiving the petition, signified to the Most Holy Prince that he could not comply with the mandates of the Sacred Congregation without the consent of the Most Reverend Oreglia, since he had been appointed by the Most Holy [Father] as Administrator of the Prefecture. Upon learning of this, the Sacred Congregation deemed it necessary to transmit the entire matter to the Most Reverend Administrator, and to seek his information and opinion. Having been informed that the Directors, due to the aforementioned expropriation, in addition to the collection of canons, which the tenant was obligated to pay annually, had also lost future benefits, he presented the following proposal of settlement to the Sacred Congregation. Regarding the collection of canons, he proposed that the Directors, since they were not to receive any damage due to the expropriation, should collect the full amount; and therefore, that the person invested with the Prefecture should be obligated to assign to the Directors a revenue equivalent to the value of the canons that they had previously collected before the occupation of the vines. Regarding the indemnity to be

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assigned to the Directors, taking into account the benefits that they would lose in the future due to the imposed expropriation, he proposed that said indemnity should not consist of half of the benefits, as prescribed by civil law, but should be increased to the full amount of the benefits. And this is because...

[*Latin ed. p. 228*]

228 In ROMA, the matter concerns not resolving a dispute according to the strict letter of the law, but rather establishing what is just and equitable among ecclesiastical entities. For the same reason of equity, and because it concerns ecclesiastical entities, the aforementioned Administrator proposed that the Directors be paid the full amount of both the canon and the laudumium, without any deduction. Although, according to the practice of the tribunals of Cassazione, such taxes are to be collected from the Directors. Regarding the third question, concerning the income already received by the emphyteuta, and given that, as a matter of fact, the indemnity paid by the Municipality to the Schedas has remained unchanged, the Most Eminent one holds that the Directors must pay annual sums, which should be credited against the aforementioned income, with the exception of the tax on movable property, since this has already been paid by the emphyteuta. Regarding the fourth question, since it is established as a matter of fact that the indemnity paid by the Municipality has been converted into consolidated income, the Most Eminent one observes that, after the conversion, nothing remains that needs to be invested. Therefore, the Most Eminent one believes that it is sufficient for the matter to be settled by recording the consolidated income in favor of the three entities that have suffered expropriation, in proportion to what the Most Eminent one has indicated above, namely, the amount by which the Directors were to receive the canon and the laudumium from the emphyteuta. Regarding the fifth question, in which the matter concerns the laudumium to be paid by the emphyteuta, despite the negative response of the Holy Congregation, the Most Eminent one maintains that the Directors have the right to demand this from the emphyteuta, as compensation for damages that they will suffer in the future. For, since, after the expropriation of the vineyard, the right of usufruct passes to others, from which the Directors have a right to the laudumium, it necessarily follows that they will suffer damage in the future. Finally, regarding the sixth and last question, the Most Eminent one accepted the initial proposal, in which it was stipulated that the direct owners should pay the commonly known tax on movable property.

[*Latin ed. p. 229*]

ROMANA 229, it should be reimbursed. However, on the other hand, since it had been stipulated that the Prelature's "invested" administrator should be dependent on the Eminent Administrator, and the Directors

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should be dependent on the respective Eminence of the Cardinal Vicar, the Eminent declared it to be more advantageous that the parties with an interest should obtain the power to demand the money deposited in the commonly called "treasury of God" from loans, in order that, with the favor of those parties with an interest, it might be inscribed, in proportion as established above by the Eminent. Furthermore, he proposed that the usufruct in favor of the Prelature's "invested" administrator should be subject to a bond, as long as he lived. This scheme was presented to two Directors; but it was rejected by the Prelature's "invested" administrator. He, in turn, requested: 1. That the taxes for movable property be levied on the Prelature's "invested" administrator, according to the provisions of civil law, to which he was obliged to submit; 2. That the Emphyteuta should pay half, not the entire laudum, to the Directors; 3. Finally, that they themselves should contribute in proportion to the tax on the deposit. Since the parties did not agree, the Holy Congregation ordered the case to be reopened, so that it might be settled according to the provisions of civil law, with certain observations made in accordance with the foregoing. Synopsis of the discussion. Regarding the compensation to be given to the Directors for eventual benefits arising from the transfer of ownership, which, after the completion of the expropriation of the vineyard, will no longer exist in the future, it was considered that it should be assigned according to the measure proposed by the Emphyteuta, that is, in proportion to half of the laudum, as the provisions of civil law prescribe. Therefore, the opinion of the Eminent Administrator, who wished that it should be increased to the full laudum, should not be accepted. And this 1. because of the reason expressed by the Eminent, namely, that the very nature of the ecclesiastical emphyteusis, with the benefits arising from the transfer of ownership, is...

[*Latin ed. p. 230*]

230. The city of ROMANA should not impose frequent assessments, so that the damage which must be compensated is lessened. 2. For if the limits prescribed by civil law, with a view to equity, were exceeded, it could happen that the Emphyteuta would suffer an undeserved and unjust loss. Indeed, if civil laws, with regard to ecclesiastical emphyteusis, in which, according to the confession of the very Emphyteuta administrator, the transfer of the use of the property is more probable and more frequent, prescribe that half of the laudium be granted to the direct lords in compensation: there appears to be no valid reason why, in ecclesiastical emphyteusis, where such transfers are less frequent, the compensation should be increased to the full laudium. To justify this increase, it must be demonstrated that the provisions of civil law in this matter are excessively harsh and detrimental to the rights of the direct lords. Furthermore, it has been noted that, according to the opinion of the Most Eminent [authority], the tax on movable property, by which consolidated income is assessed, is to be paid

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by the Emphyteuta, primarily for this reason, because it is known that those subject to such taxes are exempt from canon. Therefore, the direct lords should be assigned as many titles of consolidated income as are required, so that they may receive their customary annual income without any deduction. Moreover, the Emphyteuta could object that, in the exemptions from canon, which are commonly due to those holding property subject to mortmain, civil law provides that the direct lord should receive an annual payment equal to the canon; so that even the direct lord would be subject to the burden of the tax on movable property. This objection can be countered primarily by noting that the matter is not about a proper exemption, but rather about the price of the expropriation of the property, which is divided between the direct lords and the Emphyteuta. Therefore, it is just that, in the division of the price, the same rules should be followed as those by which the price was established. Furthermore, the Municipality did not assign consolidated income credits as compensation, but paid the price in cash. Nor does it matter that such a price is subsequently included in the consolidated income credits.

[*Latin ed. p. 231*]

ROMANA 231: The consolidated payment has remained unchanged: this is for the benefit of the Emphyteuta himself, and he obtained this arrangement at his own request. From all of these things, it is clear that the indemnity was assigned without any deduction, and that the value of the property of *fundi* represents the standard according to judicial expertise. Given that these things are so, it does not seem just to subject the portion due to the Directarii to a reduction. Secondly, it was considered that the civil law, which grants the Emphyteuta the faculty of paying canon fees, and which assigns to the Directarii a revenue equivalent to the value of the canon fees, is an exorbitant, odious, and widely detrimental law to ecclesiastical property, and therefore should be rejected by ecclesiastical tribunals. Finally, with regard to the expenses paid by the Emphyteuta, it was observed that it is equitable and just that the Directarii should be indemnified in proportion to their share. For when it is a question of expenses incurred for the common good, both of the Emphyteuta and of the Directarii, right reason dictates that each of them should contribute in proportion to those expenses. With these considerations balanced equally for both parties, and beyond the customary matters, three other new questions were raised:

I. Whether the Emphyteuta should pay half, or rather the entire, *laudemium* to the direct lords in this case?

II. Whether the canon fees to be paid to the direct lords should be subject to taxes commonly levied on movable property in this case?

III. Whether the direct lords should contribute to the payment of the deposit tax in this case?

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RESOLUTION: The Holy Congregation of Bishops and Regulars, after careful examination, decided on August 19, 1892, to respond as follows: To I, II, III, and IV: Affirmative, and furthermore. To V: Negative.

[*Latin ed. p. 232*]

232 In ROMA, the situation is as follows: Regarding past matters, the answer is affirmative and further clarification is needed. Regarding future matters, the answer is negative and further clarification is needed. Regarding new doubts: For points I and II, provision has already been made, that is, the answer is negative and further clarification is needed. For point III, the answer is affirmative, in proportion and further clarification is needed. From the foregoing, the following can be deduced: I. In the canons concerning ecclesiastical emphyteuses in fundi, the debt owed to the direct lord must be paid in full by the emphyteuta, without any reduction. II. With regard to this matter, the tax on movable property and any other burdens or taxes by which the canon of the ecclesiastical emphyteuse is burdened under civil law, are to be paid not by the direct lord, but by the emphyteuta. III. Nor should one adhere to the provisions of civil law in this matter, since these were enacted in contempt of ecclesiastical property. IV. The laudium, so called, is due to the direct lord whenever the beneficial right of the emphyteuse is transferred to others. V. And this is like a reward for the consent given by the direct lord for the transfer of the beneficial right. VI. Therefore, in the alienation of the emphyteuse right which is obligatory, no laudium is due to the direct lord, because the transfer of the right takes place without his consent, indeed, even against his will. VII. The direct lord must contribute in proportion to the expenses which the emphyteuta incurs in order to benefit the common good. MAIORICA. DECREE of Pope Pius X, April 1892. In the diocese of Maiorica, there exists, from ancient times, a celebrated sanctuary under the title of the Blessed Virgin Mary of Lluch, with an attached college, which is enriched by the piety of the faithful, and especially by the generosity of Thomas and Baldassare. All their goods were given as gifts to the Blessed Virgin. COMPENDIUM OF THE MATTER.

[*Latin ed. p. 233*]

MAIORICA. 233 [persons] were gathered, so that more of them might be ordained as priests. However, this was done with a binding condition attached, namely that they should reside permanently in the College, and should daily perform the divine office in honor of God and the Blessed Virgin Mary. But as the Sanctuary grew in size each day, the Bishop of Garz, to whom the parish of Saint Peter of Escorca belonged, in whose district the Sanctuary was located, joined with it. And this union was not only ratified by Callistus III, but also subsequently confirmed by Alexander VI and Clement VII. Provision was made for the execution of the dispositions

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made by the benefactor Thomas, through the election of several Chaplains, who, in addition to fulfilling their common duties and assisting the choir, were obliged to live a common life and to live under the obedience of a Superior, who held the title of Prior. This community of the Sanctuary existed until the beginning of this century. But at this time, due to the vicissitudes of time, it underwent some changes, which, however, did not alter the purpose of the institution intended by the founders, nor the rights of patronage, whether active or passive, of the Chaplains. Indeed, the Bishop, with funds consisting of seven suitable portions then from the hereditary possessions of the family of Thomas, as well as from alms received, and from goods belonging to the College, established, on January 14, 1804, that in the future there should be seven canons, and all priests should be strictly bound to residence; that the right of active patronage over the four first portions should belong to the Prior and the canons, while the right of passive patronage should belong to the descendants of the family of Thomas, and in their absence, to the family of Vaquet; that the remaining three portions should be subject to royal patronage; that both the four first portions and the remaining three portions should be conferred with the prior consent, in the manner in which benefices are usually conferred in the Diocese of Maiorica; and finally, that the Prior should be elected from the College, and should also be the parish priest of Escorca, and should remain in his office for two years, and should only be able to exercise the office of parish priest with the prior confirmation of the Ordinary.

[*Latin ed. p. 234*]

234. MAIORICA. Quae Episcopus statuit, et rex decreto diei 5 Martii 1804 approbavit, usque ad hunc diem observata sunt; sed dum ex una parte Concordatum inter Sanctam Sedem et Imperium initum est, et ex altera leges demaniales novitates inductae sunt. In virtute articuli 25 Concordati, qui vetabat Ecclesiae Collegiatis seu Capitula et Ordines religiosi curam animarum annexam habere, tam Episcopus actualis, quam ipse praedecessor, Ecclesiae de Escorca parochum praefecerunt, qui, etsi a Priore Sanctuarii independens esset, tamen in Ecclesia et Collegio residere et bona Sanctuarii modo precario administrare tenebatur. In virtute vero legum demanialium, quae bona immobilia Collegii Gubernio tribuerunt, cum collationum canonicae in suspenso permansisset, contigit, ut ex die 1 Maii 1855 unus parochus de Escorca cum ipsius coadiutore in Collegio residere coeperunt. Ex quo derivatum est, ut, si excipias missas lectas et unam missam quotidianam cum cantu, cetera onera a piis fundatoribus imposita satisfieri non possint, neque amplius officium divinum quotidie psallatur. Rebus sic stantibus, Episcopus Maioricensis, desiderio motus Collegium ad pristinum splendorem revocandi, quin iura aliis quaesita laederentur, sub die 24 Septembris 1890 a Sacra Congregatio Episcoporum et Regularium postulavit, ut in dicto Sanctuario religiosi Carmelitae

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instituarentur, qui fundationis onera sustineant, et eorum superior, praevia dispensatione Apostolica, paroeciam de Escorca administrare valeret. Postulavit insuper, ut actuali parocho, casu quo paroeciani dimittere haud vellet, capella pro sacramentorum administratione in Ecclesia assignaretur, et illi officia et iura determinarentur, sicut fieri solet in ceteris Cathedralibus Hispaniae, quae curam animarum annexam habent. Huiusmodi precibus acceptis, Sacra Congregatio Episcoporum et Regularium sub die 5 Decembris 1890 rescribere censuit: "Pro gratia, dummodo ius alteri quaesitum non laedatur." Habito hoc rescripto, Episcopus Maioricensis, nonnulla re-

[*Latin ed. p. 235*]

Majorica sent two hundred and thirty-five religious of the Order of Discalced Carmelites to the Sanctuary. The Sanctuary and the parish, which until then had been united, were divided by decree, and a Prior for the Sanctuary, independent of the parish priest, was appointed. The priest, William Fiol y Puyades, parish priest of the Church of the Blessed Virgin Mary of Lluch de Escorca, bearing with great displeasure the published decree, presented a petition to the Holy Congregation on April 29, 1891, so that it might be declared null and void, and that it might be deprived of all force and validity, as it infringed upon his rights. A Synopsis of the Argument. The parish priest argued with all his strength that the decree of the Bishop, by which the Sanctuary was separated from the parish, could not be maintained for several reasons. And first, because the Bishop lacked the authority and the right to carry out such a division. To prove this, he stated that the union of the parish of Saint Peter of Escorca with the Sanctuary of the Blessed Virgin of Lluch had been desired and decreed by Bishop Garcia. Furthermore, he stated that this union had been approved by Callistus III on July 24, 1465, and subsequently confirmed by Alexander VI on December 15, 1495, and by Clement VII on December 24, 1571. Finally, he stated that this union, approved and confirmed by the Supreme Pontiffs, had been faithfully observed by the Kings of Spain for a period of 400 years. With these facts established, he pointed out the principle of law, that Bishops in their dioceses cannot, without the permission of the Supreme Pontiff, derogate from or abolish a law promulgated by the Supreme Pontiff. This, besides being manifest from the unanimous teaching of the Canonists, is evident from Can. Inferior, dist. 21; from Can. Cum inferior, 16 de maiorit, et obed.; and especially from Clementine Ne Romani § i, de Elee, where it is written: "The law of the superior cannot be abolished by the inferior."

WHAT SEEMS TO FAVOR THE PARISH PRIEST.

[*Latin ed. p. 236*]

236. Therefore, it is clear that the action of the Bishop of Maiorica, who,

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with his own authority and without the permission of the Holy See, abolished and destroyed the aforementioned union, which had been approved and confirmed by several Roman Pontiffs, cannot, in any way, be sustained. Furthermore, he could not claim that the division had been carried out in accordance with the rescript of December 5, 1890, issued by the Sacred Congregation of Bishops and Regular Canons, because it was evident that this permission had been granted with a prudent limitation: provided that the rights of the other party were not violated. Indeed, the parish priest argued that the aforementioned decree concerning the division of the parish had violated the rights of the parish, stating that the parish of the Blessed Virgin of Lluch now included nothing other than the sanctuary of the Blessed Virgin, with the attached college where those devoted to the cult of the sanctuary reside, as well as a public hospice and the parochial house. If the division of the sanctuary from the parish were to be admitted, it would mean that the parish itself no longer existed, for the parish priest would have no subjects and no territory over which to exercise his jurisdiction. He also added that it was to be feared that, due to this division of the sanctuary, its assets would be lost. He noted that, in the years 1869 and 1884, these assets had been subject to taxation because the Bishops of the time had demonstrated that they belonged to the parish of the Sanctuary of Lluch. Furthermore, he insisted that no decree should be considered valid, because the Bishop, in decreeing that the Prior should have rights and faculties independent of the parish priest, had, in effect, appointed the Prior, instead of the true parish priest, as the parish priest. This is contrary to both the letter and the spirit of the Concordat between the Holy See and the Government of Spain, which prohibits religious orders from being entrusted with the care of souls, and which stipulates that all ecclesiastical persons serving a particular sanctuary must be subject to the parish priest of their territory, and must be subject to him in all matters concerning divine worship and sacred functions. Finally, he argued that nothing should be proclaimed, because the Bishop...

[*Latin ed. p. 237*]

MMORICEN. 237. The dispossession, because through a simple decree the parochial jurisdiction was deprived of it, constitutes a spoliation, which must be remedied; for when a judge, without citation or judgment, condemns someone as if he were guilty, and deprives him of a benefice or any other right in which he was situated, this is considered a spoliation. See *De Luca, disp. 70, n. 4, de benefic.* Also, *Rota, decr. 1119 coram Venia, n. 2; decr. 8, n. 6 coram Lancetta; decr. 1029, n. 1 coram Seraphino; and decr. 161, n. 4, tom. 2, recent*, where it is written: "From the lack of citation, dispossession is considered to have been committed." Therefore, even if it does not seem that a case of dispossession is being considered, it follows that all the rights must be restored to the parish priest, which he exercised before the

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aforementioned decree in the Sanctuary. Indeed, the sacred canons require this, as can be seen in Chapter 7, concerning restitution, where it states: "To the Reverend Cleric, we have learned that you have unjustly deprived the church of Werfort without judgment. Because it is not fitting for your honor to deprive clerics of your jurisdiction of their benefices without manifest cause and reasonable grounds, we command that, if this is the case, you restore to the aforementioned cleric the aforementioned church with the revenues derived therefrom, and allow him to possess it in peace." To this, the Holy Congregation of the Council adds its agreement in *Absolutionis, 10 June 1848; in Piacentina, 24 January 1846*. The Holy Rota also states in *decr. 652, page 2, n. 2, recent*: "He who has been dispossessed must first of all be restored, not only by reason of equity, but also by the precept of the law." Therefore, the parish priest concludes that the decree of division, being null, must be revoked, and that all the rights must be restored to him, by virtue of his election and canonical institution, over the Sanctuary of the Blessed Virgin of Lluch.

WHAT APPEARS TO FAVOR THE BISHOP. Conversely, the Bishop argues that the parochial jurisdiction and the Sanctuary were and are two autonomous entities, independent of each other. And although, at the beginning of this century, the parish was united with the Sanctuary, nevertheless, the Sanctuary and its College have always exercised a certain preeminence over the parish and the parish priest, "considering that..."

[*Latin ed. p. 238*]

238. The situation of the Collegiate Church, by virtue of the Apostolic Constitutions and the statutes published, with the approval of the Royal and Apostolic authorities; 2° by a prescription of five hundred years favoring the Collegiate Church; 3° by the current form of the parish provision, according to common law, by virtue of Article 27 of the Concordat in Spain. Furthermore, it is observed that a verbal agreement intervened between the Ordinary and the current Parish Priest, in which it was stipulated "that the Parish Priest should enjoy the name and office of Prior of the Collegiate Church and Sanctuary," but only "by a temporary delegation granted by the Ordinary, and by a precarious title frequently requested by him, long desired, and with the acceptance of this condition of removability, without him having uttered any word or made any protest or claim, to vindicate this office as belonging to the parish by its own right." And, in virtue of this agreement, verbally accepted by himself, it came to pass "that the presentation, nomination, collation, and possession of the cure were made in favor of William Fiol, without any mention of the Sanctuary and Collegiate Church, as in the previous provision, but with this noteworthy caution, that the Parish Priest was placed in possession only of the parochial rights pertaining to the ancient parish of St. Peter of Escorca, now of the Blessed Virgin of Lluch, without any real or symbolic tradition of 'properties, of

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the Collegiate Church, except for the dwelling assigned to the Parish Priest; much less of the keys, nor of the Chapel or oratory behind the main altar, where crowds of pilgrims gather for the adoration of the Blessed Virgin Mary, nor of the chest placed beneath it for the collection of alms, as can be seen in the act of possession, completed before witnesses by the Archpriest and publicly read by him." Having considered these facts, when proceeding to the decree of division concerning Grado, the Bishop is surprised that the Parish Priest has presented a recourse to the Sacred Congregation of Bishops and the Regular Canons; since he observes that no injury has been done to the Parish Priest, nor have the rights of the Parish Priest been violated. That no injury has been inflicted upon him, he deduces,

[*Latin ed. p. 239*]

MAIORICEN. 239, who had been appointed to the office of Prior only by a temporary delegation from the Ordinary, and with a precarious title; therefore, he could be deprived of that office whenever it pleased the Bishop, or whenever he himself deemed it opportune or suitable, and the Parish Priest could rightfully raise a complaint regarding the Prior's manner of acting. For, he who exercises his right does no injustice to anyone. And it is clear that the rights of the Parish Priest have not been violated, from the very words of the aforementioned decree of division. For in it, it is written that the care of souls, along with the uncertain and parochial offerings, belongs to the Parish Priest of Escorca; while the administration of the Sanctuary's goods belongs to the Prior, since these goods were given by pious benefactors not for the sake of the parish, but with respect to the Sanctuary itself. Then, the Bishop adds, that he had come to this division, not without careful consideration or with a light heart, but with weighty reasons: namely, 1. That the worship and piety towards the Blessed Virgin might be increased among the faithful, and that the dispositions of the pious benefactors might be observed in the best possible way. This could not be achieved in any way, as long as the Priest Fiol held both the office of Parish Priest and Prior of the Sanctuary. For, he says, inflamed by the desire for power and the lust for money, he obstructed the provision for the restoration of the community, and prevented the celebrated and wealthy Sanctuary and College from being restored to their former splendor: 2. That the purpose intended by the founder would not be frustrated, and that the Pontifical Constitutions, which had been observed up to this point in favor of the College, would not be disregarded, and that the piety of the faithful would not be rendered useless, if the College and Sanctuary remained under the authority of the Parish Priest: 3. That, finally, a salutary remedy might be prepared for the evils, the cause of which was the Parish Priest's manner of acting. For the Bishop states that the Parish Priest, disregarding the ordinances, entered into contracts for the leasing of properties without the intervention of a visitor; he completely omitted spiritual exercises; and

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he did not observe the prescriptions to be followed in the admission of children.

[*Latin ed. p. 240*]

240. MAIORICEN showed little or no concern for the institution; indeed, he treated the crowds of the truly pious and the poor pilgrims with contempt and disdain. Conversely, he lavishly received entire families into the College, not for the sake of devotion, but for amusement and dissipation, and among these were the authors of impious pamphlets, the most bitter enemies of the Church, who were closely connected to him by familial ties. He removed faithful and venerable servants from the service of the College, replacing them with others, relatives and acquaintances, who, in his habitual and unjustified absence, remained in charge of the College and the Church, despite the coadjutor, to his own disgrace and infamy, in violation of the express precepts of the regulations of the house and the canonical order. Based on these and other facts and legal reasons, the Bishop of Fermo deemed the decree of the Most Holy Congregation of Bishops and Regular Canons, dated December 16, 1890, concerning the division to be in conformity with the law, and therefore concluded that it was valid and firm. After considering these matters for both sides, the following question was proposed: Whether and how the decree issued by the Bishop of Maiorica in this case should be confirmed or revoked. RESOLUTION. The Most Holy Congregation of Bishops and Regular Canons, after mature deliberation, decided on April 1, 1892, to respond as follows: Affirmative to the first part; Negative to the second. FROM THE MOST HOLY CONGREGATION FOR RITES: Questions regarding several tables to be placed in the Church. The Most Reverend Camillus Ruggeri, Bishop of Fanum, states that in Fanum, in the newly constructed church with the monastery of the Order of the Minor Friars of Saint Francis of Assisi, the main table of the high altar depicts, above all, the Immaculate Conception of the Blessed Virgin Mary.

[*Latin ed. p. 241*]

241 Beneath the images of the Saints Paternian and Fortunatus, Bishops and Confessors, of Francis of Assisi, and of the Saints Christina, Virgin and Martyr, and Justice, Martyr; and in another of the four smaller altars, there is an image representing the Virgin Mary, Immaculate, commonly known as of Lourdes, and behind and around it are placed depictions of the aforementioned Apparitions. The following questions were humbly submitted to the Sacred Roman Congregation for a suitable resolution, so that they might pertain to the consecration of the aforementioned church, and a title might be assigned to it, namely: Question I. Must the principal image of the larger altar in the aforementioned church, and the image of the Virgin Mary of Lourdes in the smaller altar, be considered distinct, representing

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different subjects? And if the answer is No; Question II. Can the larger altar take its title from one of the aforementioned Saints, whom the principal image represents? And if the answer is No: Question III. If the larger altar is to be dedicated to the Immaculate Conception of the Blessed Virgin Mary, can the image of another Saint be placed above the smaller altar, and below, as a secondary image (sotto quadro), be placed the aforementioned image of the Virgin Mary of Lourdes? And if the answer is No. Question IV. Can a heart be added to the principal image of the larger altar, depicted in the breast of the Blessed Virgin Mary, so that it can be said to represent the Immaculate Heart of the Virgin, and not Her Conception itself? And if the answer is Affirmative: Question V. Can the new church be consecrated under the title of the Virgin Mary of Lourdes, even if the image is not placed in the larger altar, but in the smaller altar? And if the answer is Affirmative: Question VI. Must the table of this smaller altar be entirely consecrated, or not? The Sacred Congregation, after mature deliberation, and with the exquisite vote of another of the Masters of the Apostolic Ceremonies, decided to respond to the aforementioned questions as follows: To Question I: Affirmative, provided that the Blessed Virgin Mary, known as of Lourdes, is represented with all the details of the Apparition. Regarding the other questions: The decision is contained in the first. And thus it was written and declared on August 27, 1892. FROM THE SACRED CONGREGATION FOR RITES, To the Most Eminent Prefect, His Eminence Cardinal Serafini Vincent Nussi, Secretary. Acts, Volume XXV, Section CCXCII, page 16.

[*Latin ed. p. 242*]

242 APPENDIX II EXHIBITING THE DECREES OF THE APOSTOLIC SEE, EITHER ALREADY ISSUED, OR THOSE WHICH HAVE PROMPTLY ASSISTED THE EDITOR OF THE PERIODICAL. S. C. S. Office, January 30, 1765. — Vicariate Apostolic of Sutchuen. Concerning the use of blessed water in the administration of Baptism. They deign (E. E. Y. Y.) to permit us to use blessed water in the administration of Baptism, according to the rite prescribed in the Roman Ritual, but nevertheless without the addition of the sacred oils. It often happens that not only is there not a sufficient supply of water for the number of those to be baptized, but also that the sacred oils are lacking, with which, if added, new water could be blessed. R. Negatively, except in cases of necessity; and the missionaries shall act according to the Instruction of St. Charles Borromeo (in part 2 of the fifth diocesan synod). — In that Instruction it is stated: "If, within the year, the water should become corrupted by length of time or other cause, the parish priest shall immediately go to the sacristy near the font and cleanse the font; and if in a city, he shall go to the Metropolitan Church, if in the diocese, to the cathedral church, and from there he shall take water for baptism in a clean vessel and secretly carry it to the parochial church, where as soon as possible he shall pour it into the font, and to the water brought, he shall

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add only pure, clean, and fresh water as much as is sufficient. He shall also do this if, in any way, the water for baptism should be lacking even for a year." S. C. S. Office, November 8, 1770. — Missions of Loangi and Kacongi (Africa). Doubts concerning the administration of Baptism. 1. If kings and peoples are opposed to the propagation of the Gospel, can Baptism be administered to dying infants by simply touching their foreheads, or another part of the body, with a sponge soaked in water?

[*Latin ed. p. 243*]

APPENDIX: Some other considerable matters: with a sponge dipped in water, without pouring it upon [the child], for fear that the parents who have made opposition, and closely observe the missionaries, may notice [it].

2. If, in those kingdoms in which the parents oppose the baptism of their children, because the idolaters sometimes believe that baptism will cause them to die, they can be baptized in danger of death by using water in which essences or strong fragrances have been placed, so that the natural color of the child is changed, but the substance is not altered, and by using it as if it were a remedy, or by pouring the water upon a part of the body or upon the head, or in the manner of a bath, or by washing or cleansing the child, or even to refresh the eyes or cleanse the sores, or even by giving it to drink, or in some other way, as if it were a true remedy, but above all, to baptize [the child], pronouncing the formula of the Sacrament in a low voice.

R. After considering the proposed doubts, the Most Holy Congregation of the Holy Office judged that, first of all, the grave obligation should be impressed upon the missionaries, that they conform to the Roman Ritual, even in the private administration of baptism, and, as much as possible, not to deviate from it.

[*Latin ed. p. 244*]

244 Regarding the administration of Baptism, and to avoid deviating from it as much as possible. However, in the case of extreme and urgent necessity, when the child's death is imminent, and the missionaries have no other more convenient opportunity to visit, and the parents are opposed to Baptism, as is explained in the doubts, the missionaries, indeed they *must*, in such a case, use proximate and remote matter, although doubtful, because the assistance, although uncertain, for the spiritual regeneration of the child, must take precedence over the danger of the Sacrament's invalidity. Therefore, except for the method of administering Baptism as a drink, as it seems to be indicated in the second doubt, which is certainly illicit and invalid, and if the use of fragrant waters or essences is also removed, in which the substance of the water is altered, then all the other methods mentioned in the various doubts can and must be used in the case of the

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aforementioned necessity, and no other; regarding which matter, the conscience of the baptizers is burdened; and they are warned to take care, in these cases, that some portion of water flow over the head, if possible, and if it cannot be on the head, then at least over some principal part of the child's body. Furthermore, they are warned that if these children are baptized in this way, *In casu autem verae et extre mae necessitatis, quo puerimors immineat, nullaque missionariis alia occasio esse possit euminvisendi , et genitores baptismati adversantur, ceu in dubiis exponitur , possunt missionarii, imo debent materiam proximam et remotam , quantumvis dubiam , adhibere, quumauxilium , etsi incertum , pro spirituali pueri regeneratione, praestare debeat periculo invaliditatis Sacramenti. Quamobrem , excepta ratione a d ministrandi baptisma, potionis instar, ceu innui videtur in secundo dubio , quae certo certius illicita est, et invalidum fieret baptisma sic collatum, sublatoque etiam usu aquae odorae, aut essentiae, quibus aquae substantia alterata fuerit , omnes aliae rationes, de quibus in diversis dubiis, possunt debentque adhiberi in casu praedictae necessitatis, et non aliter; de qua re oneratur conscientia baptizand u m ; et monentur curare, hisce in casibus, ut aliqua pars aquae decurrat per caput, si possibile sit, et quatenus nequeat in caput, defluat saltem per aliquod princeps corporis puerimembrum . Quod si pueri sic baptizati, cum dubio de validitate Sacra-

[*Latin ed. p. 245*]

IX. If, with doubt concerning the validity of the Sacrament, they regain health, let missionaries seek every better way to baptize them anew, under condition, and to instruct them.

245. When they recover, let missionaries strive to baptize them again under condition, and to instruct them. Sacred Congregation of the Propagation of the Faith, July 9, 1779. – Apostolic Vicariate of Sutchuen. Doubt concerning the conferring of Baptism. Are these Christians who, fearing the pagans, especially when children are dying, baptize them by rubbing the child's forehead with water, or by making the sign on the forehead with a finger or cloth moistened with water, while reciting the words of the formula, without the water flowing or running? Is this kind of baptism valid? Answer: If it is done according to the rules and in conformity with the Instruction of the year 1770 sent to the missionaries in Africa (1). Sacred Congregation of the Propagation of the Faith, May 14, 1851 – Apostolic Vicariate of Melanesia and Micronesia. Doubt concerning the conferring of Baptism. Does the suspicion that among the indigenous people, who are often infected with superstitions, the very individuals who baptize dying children believe that the baptism itself causes their death, if they see a special water being used, suffice, until the nature of the indigenous people is better understood, to use unblessed water? Answer: It is possible that in such a case. Sacred Congregation of the Propagation of the Faith, June 12, 1850 – Apostolic Vicariate of Cochinchina. Doubt concerning the con-

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ferring of Baptism. Is the baptism validly conferred upon infants with this condition: "If you wish to be baptized, I baptize you," etc.? And what is to be done with those who, having been baptized by some women with such a condition attached, should they be baptized again, either absolutely, or conditionally? Answer: The baptism conferred under the stated condition is valid; however, this condition must be completely omitted in the future.

(1) Compare page 242 of this appendix.

[*Latin ed. p. 246*]

246 APPENDIX II. From the Sacred Congregation of the Holy Office, June 22, 1883 – Concerning Baptismal Water. When baptismal water is not available, blessed water, according to the formula in the new editions and in the appendix of the Roman Ritual, must be used; otherwise, natural water must be used. From the Sacred Congregation of the Holy Office, June 23, 1840 – Regarding the Apostolic Vicariate of Cocincina. A doubt concerning the administration of Baptism. A certain woman gave birth to four children, whom she herself baptized, saying in the vernacular language: "I wish to administer to you the Sacrament of Baptism for the remission of sins, in the name of the Father, and of the Son, and of the Holy Spirit. Amen." I ask, therefore, whether this Baptism, thus administered, is valid, or whether it ought to be considered as doubtful and, therefore, to be repeated, or finally, whether it is null and void, and therefore absolutely to be conferred anew? Answer: The Baptism was invalid, and therefore must be absolutely administered anew. From the Sacred Congregation of the Holy Office, December 18, 1872 – Regarding the Apostolic Vicariate of Central Oceania. A doubt concerning Baptism administered by heretics. In certain places, some (heretics) baptize, using both the proper matter and form simultaneously, but they expressly warn those being baptized not to believe that Baptism has any effect on the soul; for they say that it is merely an external sign of their sect. Therefore, they often convert Catholics by questioning their faith concerning the effects of Baptism, which they themselves call superstitious. The question is asked: 1. Whether Baptism administered by these heretics is doubtful, due to the lack of intention to do what Christ intended, if the minister has expressly declared, before baptizing, that Baptism has no effect on the soul? 2. Whether Baptism is doubtful if the aforementioned declaration has not been expressly made immediately before the Baptism was conferred, but has been frequently pronounced by the minister, and if this doctrine is openly preached in that sect? Answer: 1. No; because, although there is error concerning the effects of Baptism, the intention to do what the Church does is not excluded. 2. As stated in the first case.

[*Latin ed. p. 247*]

APPENDIX II. 247. Secretum Consistorii Sacri, 12 Octobris, 1600. – De

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administratione Baptismi filiis Christianorum et Turcorum. Utrum filii mulierum Christianarum et patris Turci... baptizandi sint, instanti patre vel matre, cum pater, progressu aetatis, eos instruat in secta Mahumetana, et filii timeant profiteri se esse Christianos. R. Baptizentur. – Monetatur Episcopus ut diligenter curam educationis habeat, et exprima si certum sit quod omnes, facti Turci, apostent a fide et labantur in Mahumetanismum; si autem non adsit certitudo apostasiae, baptizentur; si adest certitudo, iterum proponatur. Secretum Consistorii Sacri, 8 Februarii, 1624. – De Baptismo administrando filiis matris apostatae. Filii infantes mulieris quae fuit apostata a fide et illos genuit cum patre Turco, post absolutionem matris, si ipsa instat, baptizantur. Secretum Consistorii Sacri, 28 Ianuarii, 1637. – De filiis Mahumetarum baptizandis. Circa dubia: 1. De filiis Mahumetarum qui baptizantur ab eorum ancillis Christianis dum infirmi sunt. 2. De filiis apostatarum a fide qui petunt eorum filios baptizari. R. Ad 1. Baptismum posse conferri infantibus in articulo mortis moraliter constitutis, si tamen id fiat sine scandalo. Ad 2. Baptismum posse conferri dummodo adsit spes iusta et rationabilis separationis dictorum infantium a parentibus ac transmissionis ad catholicos, et christianae educationis, de qua baptizaturus diligenter inquirat. Secretum Consistorii Sacri, 10 Maii, 1703. – Ep. Quebecensis. Dubia quoad collationem Baptismi. 1. Quaeritur an missionarius possit conferre Baptismum, aliaque Sacramenta infirmo barbaro, cui explicata sunt Religionis mysteria, quique pollicitus est observaturum se mandata; missionarius autem certus est quod non promiserit ea servaturum nisi hoc tantum motivo, scilicet, quod nolit ei contradicere. Multae ipsi supersunt rationes dubitandi, num moribundus sit bene instructus, quia missionarius linguae barbarae rudis fere atque imperitus non potuit, nisi obiter, explicare mysteria sublimia excedentia captum barbarorum, et quamvis moribundus affirmet...

[*Latin ed. p. 248*]

248 APPENDIX II. Even if he seems to accept everything, external appearances and a lack of genuine devotion may suggest that he is saying these things out of politeness, so that if someone were to approach him and say, "All that you have said to me seems to be nothing more than mere words, even fables," the barbarian might, out of a desire to please, respond in the affirmative. This, however, can arise from two principles: First, he may not understand what is being said to him, for example, due to a lighthearted disposition, so that at the very moment he says, "I believe and I will do," he truly believes and intends to do so, but with the slightest reason, his opinion may change; yet it is certain that the barbarian would not want to be burned in hell, and therefore his affirmation could be true, and the difficulty lies in whether he believes in one God and whether he believes in hell, or whether he simply hears what is said to him as a story being told, which may be true or false. 2. Can an adult, uneducated, and

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simple barbarian be baptized, as happened with the barbarian, if he is given only knowledge of God, and of some of His attributes, especially those of reward and punishment? According to this passage from the Apostle, one who approaches God must believe that He is both a rewarder and a punisher; therefore, it follows that an adult barbarian, in a certain case of urgent necessity, can be baptized, even if he does not explicitly believe in Jesus Christ. 3. Is the missionary obligated to explain all the precepts of the divine positive law to adult barbarians who are being baptized or are to be baptized, especially those precepts to which they would find it difficult to submit, so that such barbarians may enjoy the security of a clear conscience, even if they do not observe those precepts which they are ignorant of, relying on the legal axiom that the law does not obligate unless it has been promulgated? R. It is not permissible, if the missionary is morally certain, as is asserted in cases of doubt, that the sick barbarian has not sufficiently, according to his own understanding, grasped the mysteries of the Christian religion that have been explained to him, or that he does not sufficiently believe in them, and that, solely for the reason of not contradicting, he promises to observe the commandments of that same religion. However, if the missionary prudently believes that the sick barbarian, when he says, "I believe and I will do," truly believes sufficiently and intends to seriously keep his promises, as mentioned above, then he should be baptized. But if, regarding these matters, the missionary has doubts, and time does not allow him to instruct him further, and the danger of death is imminent, then he should also be baptized under these conditions. Regarding 2. The missionary cannot baptize someone who does not explicitly believe in the Lord Jesus Christ, but he is obligated to instruct him about all those things that are necessary by the very nature of baptism. Regarding 3. He is obligated to explain all the precepts of the divine positive law.

[*Latin ed. p. 249*]

APPENDIX II. 249. Decrees of the Sacred Congregation of the Missions, May 10, 1703. – Epistles concerning the conferring of Baptism upon adults.

1. Whether it is necessary that the mystery of the Eucharist be explained to an adult being baptized.

2. Whether a missionary is bound to compel an adult to perform the act of contrition or attrition, so that if the act of contrition or attrition is omitted, he is not lawfully permitted to baptize him, even if the missionary instructed him in such a way as to elicit the act of love of God, as well as the act of resolution or purpose not to repeat his sins. It is much easier for a missionary who learns the language of barbarians to instruct them to perform the two latter acts than the former; for it is more difficult to make them express the motive of sorrow for their sins, because God is infinitely just, and infinitely good, and because sin merits hell.

3. Whether an adult barbarian who is near death, and who, having sev-

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eral women with him, promises to keep only one if his health is restored, but does not wish to let go of the others, can be baptized; whether the missionary is bound to compel him, and insist that the barbarian declare which of the women he will choose as his wife; whether it is sufficient for the barbarian to promise that he will have only one.

4. Whether an adult barbarian can be baptized who permits, indeed, who desires that doctors and parents employ certain superstitious ceremonies to procure health, which are at the very least vain and useless, but it is still unknown whether they are absolutely contrary to the Catholic religion; it is asked whether the missionary can baptize him before he certainly knows what such ceremonies signify and to whom they are directed.

Responsa:

1. Regarding adults who are not in imminent danger of death, it is necessary, unless there is a reason to the contrary that would lead a prudent missionary to judge that a delay after baptism is advisable. Regarding those who are dying, it is likewise necessary, unless time does not permit, or there is such disturbance in his mind that he may be distracted from receiving Baptism.

2. The missionary is bound to encourage the adult to perform the act of contrition or attrition.

3. It is not permissible if among those women, one is a legitimate wife and the others are concubines, unless the concubines are first dismissed; if, however, he has them all as legitimate wives, it is likewise not permissible, unless all are dismissed except the first; if he validly contracted marriage with her, and wishes to live with her without offending the Creator. If, however, he has received them all at the same time and in a single act as wives, or if he has them all as concubines, it is not permissible unless all are dismissed before receiving Baptism.

[*Latin ed. p. 250*]

250 APPENDIX II. Regarding point 4. Since it is certain that those ceremonies are, at the very least, vain and useless, and it is doubtful whether they are contrary to the Catholic religion, it is not permitted. S. C. S. Office, August 24, 1703. — Ep. Quebecen. Concerning baptism to be administered to the children of infidel barbarians. It is asked whether it is permissible to baptize the children of infidels or barbarians who have not yet attained the use of reason, especially the small children of the Alkonkin and other barbarians, who, although baptized, scarcely practice any of our religion, but wander through the forests, follow their ancestral superstitions, and whose children, upon reaching adolescence, become imitators [of those superstitions]. R. It is not permitted if they are the children of infidels and are left in the power of their parents; it is permitted, however, if they are the children of baptized barbarians. Care must be taken by missionaries

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and by the parents themselves that, when they reach the age of discretion, they be instructed by themselves or by others, especially if in those regions ministers of the Gospel are not foreseen to be present in due time, who can conveniently supply the lack of instruction. S. C. Office, September 28, 1734. — Vic. Ap. Sutchuen. Concerning the baptism of adults. 1. Whether the (Vicar Apostolic) ought to cease from the use and institution of the four degrees of the catechumenate, which are recounted by Cardinals Bellarmine and Bona, as having been formerly used in the primitive Church, before baptizing adults. 2. To the extent that it is negative, whether the exorcisms and ceremonies prescribed in the baptism of adults, when the catechumen is to be baptized, ought to be repeated, or whether it suffices to administer them once and separately, without any further repetition. R. His Holiness has decreed that, after a prior instruction of the catechumens, which is necessary and sufficient, for the time necessary and opportune, according to the quality and capacity of the persons, all ceremonies and exorcisms, according to the order prescribed by the Roman Ritual, are to be observed.

[*Latin ed. p. 251*]

APPENDIX II. 251 S. C. S. Office, November 18, 1745. – Doubts concerning the conferring of Baptism.

1. Whether children born of a Christian mother and a Gentile father, or vice versa, can licitly be baptized by a missionary, even if the Gentile father or mother is unwilling or unaware. It often happens that such baptized children, upon reaching adolescence, follow the unfaithful father or mother and engage in superstitious and idolatrous practices according to the customs of the Gentiles, and they are unwilling to heed the pious admonitions of the faithful parent, that is, the father or mother, even when repeatedly given.

2. Whether, if the Gentile father or mother consents to the baptism, children born of a Christian father or mother can licitly be baptized. It frequently happens that the Gentile father or mother consents at the time of baptism, and afterward, seeing the children grow, leads them into superstitious practices, and thus, generally speaking, out of a hundred such children who reach adolescence, if the unfaithful parent remains, scarcely ten will follow the holy religion.

Regarding 1. According to the response of Gregory IX in chapter *Ex litteris*, concerning the conversion of the infidels, and the common opinion of the Doctors, it is licitly permissible, in general, to baptize children born of a Christian mother and a Gentile father, and vice versa, even if the Gentile father or mother is unwilling or unaware; but, as is explained above, it often happens that the baptized children follow the unfaithful parent. Therefore, the Constitution of the Most Holy Lord, beginning with the words *Inter omnigenas*, promulgated on February 2, in the year 1744, for the clergy

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and the people of the kingdom of Serfidsche, should be observed, in which the following is stated: "Regarding these children whom the parish priests present for baptism, when it appears that their lives are in danger, the aforementioned parish priests should not hesitate to cleanse them with the sacred laver, admonishing the mothers to diligently take care that, if they recover, they be raised in the Christian religion. But concerning those who possess a strong and vigorous constitution of the body, and who are offered for baptism not for any superstitious purpose, but solely with the desire of obtaining salvation, since it is impossible to expound all the circumstances that may suggest whether they will persevere in the observance of the evangelical law and faith, or whether, being deprived of a Christian education by such mothers, they will follow the impieties of the Mahometan father, and considering also the dangers of childhood, for which it is said that one-third of mankind perishes before completing the tenth year of age, we do not think it necessary to give any explicit command, but we merely exhort the ministers of the Church to act, with heartfelt prayer, according to the guidance of the Holy Spirit and the dictates of their prudence. And if they believe that they can be admitted to baptism...

[*Latin ed. p. 252*]

252 APPENDIX II. [They] ought to see to it that mothers are instructed in the distinct obligation which they have to, if their children have attained the use of reason, make known the truth of God, and to educate them in discipline and correction in the Lord. 2. It is permissible to baptize a child born of a Christian father or mother, if the father or mother who is a Gentile consents to the baptism. But, as is explained in the case, it often happens that the Gentile who consented to the baptism later leads the child to superstition; therefore, the Constitution, about which we spoke in the answer to the first question, must be observed and kept in mind. S. C. S. Officii, 21 January 1767. – Concerning administering baptism at home. Regarding the baptism of infants, which heretics sometimes request for their children, it has already been defined that they should not be baptized at home unless there is necessity. This difficulty still remains: whether the mere will of the parents should be considered sufficient for necessity. For they are imbued with this heresy, that baptism is not simply necessary for the salvation of the soul, and they would rather expose their children to the danger of dying without baptism than consent to have them brought to a Catholic church. It is asked by Religious of Lusitania, whether, besides the danger of death, the obstinate will of the parents not allowing their children to be brought to church can be considered a true necessity. I thought it better to await the response of your Holy Congregation, rather than to define anything hastily without hope of obtaining the desired outcome. R. In the General Congregation of the Holy Roman and Universal Inquisition, held in the Apostolic Palace at Quirinal, before His Holiness Pope Clement

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XIII, and before the Most Eminent and Reverend Lords Cardinals throughout the Christian Republic, as General Inquisitors, specially appointed by the Holy Apostolic See, after the doubts proposed by the Apostolic Vicar of Siam to the Sacred Congregation for the Propagation of the Faith, and transmitted by that Congregation to the Holy Office, His Holiness Pope Clement XIII, after hearing the votes of the Most Eminent Lords Cardinals General Inquisitors, decreed that the Instruction attached hereto, marked with the letter A, should be given on both doubts, and that it should be approved by His Holiness. A. INSTRUCTION. The doubt concerning the administration of baptism to newly born infants from heretical parents is based on a false principle, namely, that it is not permissible to baptize them at home except in the case of danger of death, but that it is permissible in the church, if...

[*Latin ed. p. 253*]

APPENDIX Ii. 253, they are brought for the reception of Baptism. However, since a grave danger of sin arises from this false persuasion, not only against the ecclesiastical, but also against the divine law, which prescribes the subject to whom it is not permitted to administer Baptism; therefore, the present instruction was ordered to be written out and transmitted to the aforementioned Reverend Father, Apostolic Vicar, so that, communicating this to the missionaries residing here, each one may learn the true reason why it has been repeatedly defined by the Apostolic See that the sacrament of Baptism may not be administered to children born of heretical parents, except in the case of mortal danger, and that they should be careful not to solicit heretical parents to bring their children to the Church to be initiated by Baptism. Indeed, the Church, in the Clementine Decretal on Baptism, chapter 1, expressly forbids, except for the case of necessity, for which reason access to the Church cannot be had without danger, that infants be baptized at home, unless they are the children of great princes; but this law, which specifies the place where Baptism is to be administered, establishes nothing regarding children born of heretical parents, and it is known from elsewhere that, if they are in good health, they cannot be baptized, either at home or in the church, since it is forbidden by divine and natural law to give holy things to dogs and to cast pearls before swine; and since the mysteries of the Catholic religion are the most holy and useful sacraments, through which the merits of the Passion of our Lord Jesus Christ are communicated, and all true justice in us either begins, or is increased, or is restored, it is not permissible to give these to dogs, that is, to those in Fains, who, first of all, will be able to despise them and corrupt themselves with their vice. But it is clear that children born of heretical parents, who are to be entrusted to the care and education of their parents until they reach the age of discretion, in which they can be held accountable for their actions, will be imbued with the errors of their fathers; and they will sacrilegiously swear to the Catholic

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faith, which they are to profess through sponsors at Baptism, to their own condemnation, and to the grave contempt of the Catholic Church in which they are regenerated. For this reason, it is not permissible to baptize them at an early age, except in the case of mortal danger, and Catholic ministers sin against the office of faithful dispensers when they admit them to receive Baptism. Therefore, the missionaries should not take any action to administer Baptism to these aforementioned children, even if it should happen that, in the future, they will be deprived of this sacrament due to the error of their parents, who consider it to be of little necessity for attaining eternal salvation. Indeed, Baptism cannot benefit them, who, having accepted the use of reason, will soon become apostates from the Catholic faith, nor does the sanctity of the sacrament allow it to be conferred upon them with a manifest danger of profanation.

[*Latin ed. p. 254*]

254 APPENDIX II. Cum vero periculum mortis imminet, vel cum parvuli quibuslibet morbis infirmi sunt, et qui prudenter putantur mori posse antequam aevum discretionis attingant, missionarii non solum licet, sed curare diligenter debent ut Sacramentum Baptismi tempestive eis conferatur, non solum in ecclesia, sed etiam in domo, si parentes, voluntate firma, nolint eos ad ecclesiam ferri; tum enim cessat periculum proximae perversionis, et aeternae salutis infanti, necessario remedio, sine culpa, imo etiam cum merito, prospicitur. Quotienscumque autem in domibus haereticorum Baptismum infantibus, ut supra periclitantibus, administrandi sit, solemnitates omittantur, quae ad Sacramenti substantiam non pertinent; nam ecclesiastica regula cautum est, ne coram haereticis in eorum domibus adhibeantur. S. C. S. Officii, 8 Martii 1770. — Missiones Loangi et Kacongi (Africae), Dubia quoad adultorum et mentecaptorum baptisma.

1. An in quocumque regno, quo religioni exercitium sit aut non sit liberum, adulti baptizari possint, qui in periculo mortis constituti, tempus non sufficiat ad eorumdem instructionem, etsi bonam nutriant voluntatem, et respondere tantum valeant utique unicuique ex fidei articulis, qui credendi eisdem proponuntur, veluti absolute necessarii, ut quis baptizari possit; sive edere tantum valeant signa quibus innuunt sese credere quidquid sibi dicitur; et qui, praeter fidem, magno atteruntur dolore ob offensas Deo illatas, flagranturque desiderio baptismi?

2. An baptisma administrari possit Senibus, qui neque moribundi sunt, neque morbo affecti, quando hoc desiderant, etsi memoria retinere non valeant scita necessaria; quae vero, cum intelle-

[*Latin ed. p. 255*]

255 APPENDIX II. after having understood them, they assure that they believe them, and confess them as those who vainly strive to teach them these things. 3. Whether those who are insane by birth, or who have become

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so before the use of reason, can be baptized, although materially they now go to the churches of the Catholics, or to temples of idols, and outwardly perform all the ceremonies of idolatry, just as they perform the rites of the Christian religion. His Holiness, having heard, etc., decreed: Affirmative in all and furthermore, he ordered that the missionaries be warned concerning the first and second questions, so that they take care not to seek baptism from the infirm, rather from a superstitious belief in obtaining salvation of the body through the saving laver, than from a spiritual regeneration of the soul. Likewise, they should be warned that if adults, concerning whom these questions are asked, recover from a mortal infirmity after receiving Baptism, the missionaries are bound to instruct them, as far as is manly possible, in the rudiments of the Faith, and if the elderly are slower in memory, they should assist them with repeated instruction due to their weakness. Regarding the third question, it was added that the missionaries should, as far as possible, take care that the insane, concerning whom these questions are asked, do not enter temples of idols, and that they abstain from the ceremonies of idolaters. Instruction of the Holy Congregation, March 28, 1860 (for the Apostolic Vicariate of the Galla). Concerning the Baptism of Adults. Thus, the Gospel should be preached to the Apostles: "Repent, and be baptized every one of you in the name of Jesus Christ for the remission of sins." Therefore, for adults (to be baptized), penance is necessary, not sacramentally received, but virtually, insofar as one must completely depart from the state of sin in order to receive Baptism, so as to obtain grace. For if anyone wishes to be baptized with the will to persist in sin, the Sacrament of Baptism should not be conferred upon him, as teaches St. Thomas (3a, q. 68, a. 4), firstly because through Baptism, men are incorporated into Christ, according to the words (Galatians 3): "For as many of you as have been baptized in Christ have put on Christ." However, as long as someone has the will to sin, he cannot -

[*Latin ed. p. 256*]

256 APPENDIX II. To be united to Christ, according to that which is written (2 Corinthians 6): "What participation hath justice with iniquity?" Therefore, Augustine says (in the book *De Poenitentia*) that no one constituted master of his own will can begin a new life unless he repents of his former life. Therefore, whether polygamists or concubines, they must entirely withdraw from the state of fornication, if they wish to prepare themselves worthily for baptism; and in this matter, the Catholic faith yields to no one, nor does it ever allow light to be joined with darkness, nor Christ to be united with Belial. Sacred Congregation of the Holy Office, March 23, 1656. — Missionaries in China. Concerning the administration of baptism to women, omitting certain sacramental rites. Whether all the sacramental rites in the baptism of adult women should be employed? The reason for doubting is the incredible modesty of women in China, their zeal, and their

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praiseworthy avoidance of all contact, not only with men, but even with their gaze; in this case, unless great caution is employed by the missionaries, a great scandal could be given to the Chinese, and the entire Christian faith could be exposed to evident danger. Response: With a proportionate reason arising from a grave necessity, certain sacramental rites can be omitted in the baptism of women. Sacred Congregation of the Holy Office, May 27, 1671. — Concerning baptism, in which it is doubted whether water has touched any part of the infant. Heretical ministers, intending to baptize infants wrapped in swaddling clothes, pour water from a basin so commonly that the swaddling clothes are touched, but rarely any part of the infant's body: in this case, there is no baptism. Therefore, the question is asked, whether Catholic ministers should not always rebaptize those baptized by heretics, under the condition that they were baptized in this manner. Response: If it is certain that someone was baptized in such a way that the water touched no part of the body, but only the clothes, then that person must absolutely be baptized; if, however, there is a probable doubt that it touched, then that person must be rebaptized under the condition.

[*Latin ed. p. 257*]

APPENDIX 257 II. From the Sacred Congregation of the Holy Office, June 25, 1866 – To the Apostolic Vicariate for the Gauls, Concerning the Administration of Baptism to Girls...

1. Whether, on account of the danger that a daughter might be given in marriage to a Muslim or pagan man, or to a simple polygamous Christian, it can be administered without imprudence to girls, whether infants or adults, who otherwise possess the necessary dispositions to receive it, before the man to whom they are to be given in marriage is determined; or whether it is necessary to wait until the marriage is established.

2. Whether, on account of the danger that slaves might be sold to Muslim or pagan masters with a difference in faith, baptism can be conferred upon them in infancy or even in adulthood, as long as such a danger persists, and their master does not swear the contrary.

R. Regarding the first question, a distinction must be made between infant girls and adult girls. Those, in whom nothing else stands in the way except the danger of future marriages, can and should be admitted to baptism, since it is not right that they should be denied the benefit of the grace of baptism for a reason that is uncertain and still very remote. However, adult girls, whether they are not yet marriageable, or are already marriageable but not yet betrothed, or are already betrothed to infidels or polygamists, are a different case. In the first two cases, there is no reason to deny or postpone baptism, provided that the aforementioned girls possess the necessary dispositions, since the danger of entering into unlawful marriages with infidels, and of being forcibly retained in such marriages afterward, does not immediately and certainly threaten them, and can be removed in

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other ways. But in the third case, it is by no means advisable to baptize them before marriage, both because of the not inconsiderable difficulty of obtaining a legitimate dispensation, and because of the very grave danger that they may proceed to the marriage, even if a dispensation were granted, which certainly cannot be conceded over impediments of natural law; it is therefore better to postpone baptism than to expose them to imminent profanation. If, however, for particular circumstances and serious reasons, it is judged necessary to baptize them, then it is absolutely necessary that they have such a disposition of mind that, if a dispensation cannot be obtained, they would rather die than enter into a sacrilegious and unlawful marriage.

Regarding the second question, the difficulty is greater with infants than with adults. For, the danger of perversion being foreseen, baptism should not be conferred to the extent that it cannot be removed in any way by suitable instruction. With this principle established, it follows that adult men and women of both sexes, who are properly disposed and are Christians, should be baptized.

[*Latin ed. p. 258*]

258 APPENDIX II. Those who can be instructed and prepared, ought to be baptized, even if their master should promise that he will never do so, and that he will sell them to infidels. With regard to slaves who are still infants, it must be considered whether they are exposed to the danger of passing into the power of infidels after reaching adolescence, or even before the age of infancy is over. In the former case, whenever nothing hinders their baptism except the aforementioned danger, and there is some hope of their Christian upbringing, they may lawfully be cleansed with the sacred laver; and likewise, it is lawful to administer it to them in the latter case, if they are offered by Christian parents, or if relatives are found. In other cases, missionaries should be consulted, and the most wise precepts which St. Benedict XIV. handed down on this matter in his letter to the Archbishop of Tarsus should be faithfully observed. Sacred Congregation of the Holy Office, November 17, 1830. — Whether a doubtful baptism constitutes an impediment to a marriage of disparity. Whether those living in places where Protestants are, where a doubtful baptism is given, are to be considered as infidels, so that a marriage of disparity would be considered to have a valid impediment between Catholics and those of a different religion? Answer: 1. With regard to heretics whose sects prescribe the giving of baptism without the necessary use of the essential matter and form, the particular case must be examined. — 2. With regard to others who, according to their rite, validly baptize, the baptism is to be considered valid. And if the doubt persists even in the first case, the baptism is to be considered valid in order to the validity of marriage. — 3. But if it is certainly known that there is no baptism according to the actual custom of that sect, there is no marriage. Sacred Congregation of the Holy Office, April 6,

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1859, Ep. Harlemen. — Concerning those baptized by heretics. 1. Whether those baptized by heretics are to be considered as baptized conditionally. 2. Whether at least those for whom it is not certain that they were validly baptized are to be considered as such. Answer: To questions 1 and 2, the following answer is given by the Sacred Congregation of the Council, dated March 27, 1683, namely, that they are not to be rebaptized, unless there is a probable doubt of the invalidity of the baptism.

[*Latin ed. p. 259*]

APPENDIX II. 259 From the Instruction of the Sacred Congregation of the Holy Office, June 20, 1866 (for the Apostolic Vicariate among the Gauls), concerning the administration of Baptism to those coming from Abyssinia. The Apostolic Vicar reports that on March 11, 1861, he issued a decree, provisionally, that all those coming from Abyssinia, who claim to be Christians, not excluding priests even those ordained according to the Catholic rite, but not baptized, should be rebaptized conditionally. He adduces various reasons for this decree, which are expressed partly in the preface of the decree itself, and partly in a separate document in which a certain Abyssinian priest, Michael Haylu, requested the Apostolic Vicar to rebaptize, confirm, and initiate him into the Sacred Orders conditionally. As with other priests who were doubtful about the validity of their baptism received in Abyssinia, the Apostolic Vicar granted this request. Regarding laypersons, or even priests, who were baptized in Abyssinia by schismatic priests, the Apostolic Vicar intends to rebaptize all of them conditionally, but he has not yet ordered that Confirmation should also be administered to them conditionally, since that Sacrament is not absolutely necessary. Therefore, he asks: Should Confirmation, in addition to Baptism, also be administered conditionally to priests and laypersons coming from Abyssinia, who were baptized there among the schismatics, and who are present in the region of the Gauls?

R. The decree concerning the rebaptism conditionally of all those who were baptized among the schismatics in Abyssinia has not been approved by the Most Holy Fathers. For no one is ignorant that baptism conferred by a heretical or schismatic minister is valid, if nothing prescribed by the Holy Roman Church concerning matter, form, and intention has been omitted, nor can such a baptism, even conditionally, be renewed without a serious penalty and the penalty of irregularity, except in the case where there is a probable doubt of its invalidity. Therefore, any slight suspicion or scruple to the contrary is not sufficient to warrant the conditional rebaptism of anyone, but a probable doubt is absolutely required, which, even after diligent investigation, cannot be dispelled in any way. Indeed, the reasons by which the Apostolic Vicar says he was persuaded to issue the decree concerning conditional rebaptism are not of such a nature as to warrant a probable doubt about the validity of all baptisms administered in Abyssinia by schis-

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matic priests; especially since the liturgical books of the Abyssinian Church, with regard to Baptism, are free from reproach, and some are worthy of belief.

[*Latin ed. p. 260*]

260 APPENDIX II. Missionaries having reported to this Sacred Congregation that they have, on several occasions, witnessed baptisms administered by Abyssinian schismatics, and have found no substantial defects in them, although they do not deny that, perhaps in some Abyssinian provinces, such a practice of baptizing might exist, which reasonably and justly renders the validity of the administered baptism uncertain. Therefore, let the aforementioned decree (of the Vicarius Apostolici) stand, concerning the instruction given by this Supreme Congregation to the Apostolic Vicar of Abyssinia on May 2, 1858: from which instruction, it should be noted that particular cases must be considered, and if it should ever be necessary to repeat the baptism with a conditional formula, due to a prudent doubt regarding the validity of the previous baptism, the Confirmation should also be repeated, both for clerics and for laypersons: for although this sacrament is not absolutely necessary by the necessity of means, as Saint Thomas teaches, it would be entirely dangerous if one were to depart from this life without Confirmation, not because one would be condemned, unless perhaps due to contempt, but because one would suffer a detriment to perfection. Sacred Congregation of the Holy Office, September 9, 1868 (Vicarius Apostolici of Laponia): Concerning the marriage of those who have been dubiously baptized. 1. In the case of doubt concerning the validity of baptism, are those Japanese who have received baptism to be considered still as Christians or as infidels? — 2. If the doubt concerning the validity of baptism remains, and it is not deemed opportune to resolve the doubt, are those who have been thus dubiously baptized to be considered, in matters pertaining to marriage, as if they had been truly and validly baptized, or not? R. 1. Generally speaking, those concerning whom there is doubt as to whether they have been validly baptized are to be considered as Christians. — 2. It is to be considered that baptism is valid in order to the validity of marriage. Sacred Congregation of the Holy Office, November 20, 1878. — Concerning baptism to be conferred upon heretics belonging to any sect. Whether baptism should be conferred conditionally upon heretics who are converted to the Catholic faith, coming from any place and belonging to any sect. R. Negatively: but in the conversion of heretics, whether they come from any place or belong to any sect, inquiry must be made concerning the validity of the baptism received in heresy. Therefore,

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in each case, an examination should be made, if...

[*Latin ed. p. 261*]

APPENDIX II. 261 having been received, or having been received in no way, they shall be absolutely baptized; but if, for the time and reason of the place, after investigation, nothing is discovered concerning either its validity or its invalidity, or if a probable doubt about the validity of the baptism still remains, then they shall be baptized under the condition. Finally, if it is established that it was valid, they shall be admitted only after an abjuration or profession of faith. S. C. S. Office, August 1, 1883. Savannah. — Doubts about baptism concerning marriage. Among the other difficult cases to resolve, which occur in the ecclesiastical provinces of the United States of North America, and also in this my diocese, is also the following: it frequently happens that two non-Catholics contract marriage between themselves, and it is unknown whether either or which of them has been baptized. In marriages contracted between two non-Catholics, or without a dispensation between one Catholic and one non-Catholic, there is no impediment of clandestine marriage in any of our dioceses. After such a marriage has been contracted, it often happens that one of the parties deserts the other. After some time, the separated parties not infrequently enter into other marriages, with one party still surviving. I know of a case in which, after considering the quality of the evidence for and against, there is doubt as to whether baptism was conferred on either or both parties, and it is to be maintained that the marriage is valid with such a doubt and without dispensation, until it is established that it was invalid; but lacking other evidence on both sides of the doubt, I ask: I. Whether, in order to determine the validity or invalidity of the marriage contract, the conferring or non-conferring of baptism, when unknown, should be determined by the principle of presumption. In doubtful cases, the most learned Archbishop Kenrick affirms this: in his moral theology (tract. XXI, no. 40), he states: "If there is no certainty about the baptism of the spouse, and no certain testimony can be had, it is necessary to lean towards the opinion that favors the value of the baptism and the marriage." If the esteemed Kenrick thinks this correctly, I ask further: II. Whether, when the conferring of baptism is unknown, the principle of presumption, in order to determine the value of the marriage contract, should be properly applied in the following cases: 1. If the non-Catholic parties have parents belonging to a sect that rejects baptism, then baptism should not be presumed. 2. The same should be resolved if the parents belong to a sect that does not admit infant baptism, or in which it is not conferred except...

[*Latin ed. p. 262*]

262 APPENDIX II. for adults, for example, those who have already reached the age of thirty, as is the case in the Baptist sect. 3. The same must

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be determined if the parents, while still living, have declared that they do not wish to belong to any sect, and that they prefer to honor God above all with honest conduct, as they say, rather than with any particular form of worship. 4. If the parents belong to a sect which considers baptism to be necessary, or in which it is at least ordinarily administered, and if these parents are zealous in their sect, then baptism should be presumed. But what if the parents are indifferent in their sect, or if they belong to a sect which does not reject baptism, but does not consider it necessary, and in which it is not ordinarily administered? Should baptism be presumed in either or both of these cases? 5. If, according to the sect and disposition of mind of only one parent, the presumption favors baptism, and if, in the upbringing of the child, that parent has, in fact and without doubt, held the leading role, then baptism should be presumed. The same should be determined if, after investigation, it is unknown or not sufficiently clear which parent has held the leading role; for in matters relating to marriage, baptism should be presumed, since a marriage once begun is considered valid as long as both parties consent. But what if it is certain that the parent who has, in fact and without doubt, held the leading role in the upbringing of the child, does not favor baptism in their sect and disposition of mind, while the other parent's sect and disposition of mind favor baptism? 6. In the case where no presumption favors baptism, the rule must be applied: "A fact is not presumed, but must be proven." The application of this rule may perhaps be more appropriate in these United States, where there are many non-Catholics who pay little or no attention to the baptism of their children, than in many other regions. The questions raised above are therefore presented especially so that a standard may be derived from their solution, according to which it is possible to proceed safely, especially in these cases. 1. Suppose that, from two non-Catholic parties separated from each other as described above, one wishes to be received into the bosom of the Church, and has either already entered into marriage or desires to do so. 2. Suppose that a Catholic party, separated from a non-Catholic party as described above, wishes to enter into marriage with the other party, or is already joined to the other party, and desires to be admitted to the Sacraments. R. To I. Affirmative, after a thorough investigation in each case. To II. (namely: "Whether, when the conferring of baptism is unknown, the principles of presumption relating to the validity of a marriage contracted are properly applied in the following articles:") Affirmative, with caution.

[*Latin ed. p. 263*]

APPENDIX II. 263 concerning both the third article, and with regard to the first part of the fourth and the first part of the fifth number, but in this last article, after the words "should have parts," add: "nor should either spouse be positively known to be contrary to the administration of baptism; in such a case, baptism is to be presumed." In the remaining cases men-

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tioned in the second part of the fifth number, recourse must be had to the Holy See, after all matters, places, and persons, and other things relevant to the case, have been explained. At Sestri Ponente. Provision made in the foregoing. S. C. Rit. May 19, 1881. — Doubt concerning the consecration of oil. When, absolutely, the oils are lacking, whether it be the oil of chrism or the oil of the catechumens, or the remaining portion is so small that it does not allow another, unblessed oil to be poured into the vessel of consecrated oil, and considering the particular faculties granted to Bishops in mission territories by the Holy See, it is asked: 1. What rites should be observed in such a consecration? 2. What Mass should be celebrated in this case? 3. Should the oils be consecrated according to the rubrics prescribed in the Mass for a Feria and in the Mass of the Lord's Supper? R. To 1 and 3. The Roman Pontifical is to be observed. To 2. A Mass should be celebrated according to the feast that occurs. S. C. Rit. September 23, 1837 — Oriolen. Doubts concerning the administration of baptism. Due to the calamities of the civil war in the Kingdom of Spain, it happened that the Most Reverend Bishop of Oriolen was unable, in the year 1836, to consecrate the sacred oils on the Feria in the Mass of the Lord's Supper, for the solemn blessing of the baptismal fonts to be performed in the parochial churches on the following Saturday Holy, nor could the same oils be obtained from neighboring Bishops, since, due to common hardships, almost all Episcopal Sees were without their proper pastors, so that, with communications interrupted, the flock was separated from the pastor, the children from the parent, and the Church from the Bishops, to the great detriment of the salvation of souls. In such circumstances, the parish priests of the diocese of Oriolen presented various opinions among themselves; and while some denied it, many believed that the solemn blessing of the baptismal fonts could be performed, using oils that had been consecrated in the previous year. In this matter of opinions and judgments...

[*Latin ed. p. 264*]

264 APPENDIX II. Concerning the variety of usages, they decided that the Holy See should inquire whether certain religious orders followed a specific rule in this matter of such importance, and therefore, humbly proposed the following questions to be examined:

1. Whether such a blessing (of the baptismal font on Holy Saturday) ought to be performed with the chrism and oil of the preceding year; or whether, rather, the anointing with the chrism and oil should be omitted until recently consecrated ones are received?

2. Whether, in the solemn baptism of infants, water should be used that is blessed with the other ceremonies of the Missal, but without consecration, or without the mixture of sacred chrism and oil; or whether water consecrated in the preceding year, which is kept for this purpose, should be used?

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3. Whether, supposing that the baptismal water is blessed with old oils, because recently consecrated ones are not available, it should be poured into the basin along with the newly received oils, and then the water should be blessed again with these, according to the ceremonies of the Roman Ritual; or whether that water should be preserved and used until the blessing on the vigil of Pentecost, as is stated in the Missal?

4. Whether, in the solemn baptism, infants should be anointed with the chrism and oil of the preceding year, while recently consecrated ones are not available; or whether this ceremony should be omitted, and afterwards supplied, when new oil and new chrism are received?

R. To question 1: Affirmative to the first part, negative to the second. To question 2: Negative to both; but a new blessing of the font should be performed with the oils of the preceding year; or, provision should be made as stated in the first part of the preceding question. To question 3: Negative to the first part, affirmative to the second. To question 4: Affirmative to the first part, negative to the second.

S. C. de Prop. Fide - C. P. Pro Sin. 6 August 1840. Concerning the mixing of old oil.... Whether it is permissible to mix consecrated old oil with oil that is being consecrated, or whether it would be better to consecrate the oil, and then mix it with old oil that has already been consecrated.

R. According to the rubric, neither is permitted; the old oil should always be burned.

[*Latin ed. p. 265*]

APPENDIX II. From the Sacred Congregation for the Propagation of the Faith, August 8, 1869 – (addressed to the Apostolic Vicariate of India). Decrees concerning baptismal water. The following decrees concerning baptismal water, issued by the Second Synod of Pondicherry, were extended to all Apostolic Vicariates of India.

1. The missionary shall keep consecrated water in a suitable place and vessel in the church where he ordinarily resides, and shall use it in administering the Sacrament of Holy Baptism; he shall do the same in churches in which he resides for a considerable portion of the year.

2. If necessity arises, the missionary may use the faculty of preparing blessed water outside of the Lord's Day and the Vigil of Pentecost.

3. In places where he visits to administer the Sacraments, the missionary shall use consecrated water whenever he can easily carry it with him on his journeys.

Furthermore, the Most Holy Fathers wished that the Decree given to the Apostolic Vicar of Tonkin on February 10, 1806, be communicated to all Apostolic Vicars: "Missionaries are entirely bound to perform all things according to the prescriptions of the Roman Ritual, even in that part which pertains to the sacramentalia and the use of water reserved in the baptismal

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font. However, if it should be burdensome or dangerous to keep water blessed according to the prescribed rite, it will be permissible in such cases for missionaries, or for anyone else who is suitable for administering this Sacrament according to the circumstances, to use ordinary water, especially if it has been blessed, in place of the water of the baptismal font, which can only be obtained with great difficulty or danger."

From the Sacred Congregation for the Propagation of the Faith, August 16, 1737 – Ceylon. Doubts concerning the administration of Baptism to the children of Catholics who are born under the dominion of heretics.

1. Can all the children of Catholics, who are born there under the dominion of heretics, be baptized without distinction, even if it is certainly known that, if they live, these children will be brought by their faithful parents to be baptized by a minister of the heretical sect, because they will fear persecution if they declare that their children have been baptized by Catholics?

2. Can the missionaries permit, or expressly not forbid, parents to act in this manner, if they believe in good conscience that such action is permissible?

Answer: To the first question, the answer is affirmative, and missionaries are to admonish the faithful so that they may know that they are administering the Sacrament of Baptism. To the second question, the answer is negative, and missionaries are to be held to warn their subjects about illicit cooperation in the repetition of Baptism.

[*Latin ed. p. 266*]

266 APPENDIX II. From the Sacred Congregation of the Propagation of the Faith. — Decrees pertaining to the Holy See, January 3, 1777. Doubts concerning the administration of baptism to young women betrothed to Gentiles.

1. There are many among the Christians, especially the newly converted, who, during their pagan times, promised to marry their daughters to Gentiles. The greatest difficulty lies in dissolving such contracts, and there is no way to compel the non-believers to do so. When the young woman is denied to them, they appeal to the Prefects, and they always succeed in obtaining a judgment in their favor, according to the laws of the Empire. The question is whether these young women can be lawfully baptized before reaching the age of majority, at least when their father or mother, or both, embrace the faith, and they can be raised in the Christian faith until the time of the marriage. The reason for our doubt is that, if they are baptized and are then forced to marry a Gentile, perhaps, if the required conditions are lacking, there will be no grounds for a dispensation, and then the marriage will be null, or they will suffer very serious troubles from the Prefects, who have the right to compel them to be given to the husbands by force, when

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the young women refuse the marriage. On the other hand, perhaps before the time of the marriage, the future husband will break off the betrothal, or he himself will die, or the young woman herself will die, or she will become a Christian, or at least she will agree to the conditions which the Sacred Congregation requires for granting a dispensation. Nothing can be determined with certainty at this time, because the future spouses are still in their infancy.

2. Can a non-Christian woman, married to a non-Christian man, of whom there is a probable hope that she will live a Christian life under the yoke of her husband, but of whom there is no probable hope that the children born to her will be freely educated in the Christian faith due to the opposition of the non-Christian husband (and a separation cannot be obtained without serious harm), be admitted to the Sacrament of Baptism without a prior divorce, at least with regard to the bed?

Response:

To 1: Affirmative.

To 2: Under attentive circumstances, it is possible, provided that she promises to take all possible measures to ensure the religious education of the children.

[*Latin ed. p. 267*]

267 Letters from the Most Holy Pope Leo XIII to the Bishop of Orleans, in which he encourages him to continue the path he has begun, despite the obstacles encountered. Your letters dated October 25th admirably responded to Our expectations and fulfilled Our desires, by showing Us everything that you have done, in recent times, so that your clergy conform their conduct to the teachings of Our Encyclical and of Our other letters concerning the present state of affairs in France. This account, as you anticipated, was a great source of consolation to Us; and We felt a growing hope that such obedience would, one day, be fittingly rewarded by the eternal Shepherd of the Church, whose place We hold. But, upon this ray of joy, a cloud of sadness has spread (ah! may it soon dissipate!), when you enumerated the obstacles, without the slightest justification, raised to prevent Our affectionate advice and Our constant concerns from achieving the much-desired result: the salvation and prosperity of the French people. What profound and growing anxieties We experience at the sight of the vexations and injuries inflicted almost every day upon the Church of God! As if the tribulations that beset Us here were not enough, We must share the pains that, among you, justly afflict the episcopate, the clergy, the people devoted to the religion of their fathers, and resolved at all costs to remain faithful to it. Indeed, the repeated testimonies of Our paternal love towards you, and Our constant efforts to bring peace to your country, by inviting all men of heart and integrity to concord, seem to have provoked a resurgence of anger on the part of a faction implacably opposed to the Church; which,

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in public affairs, admits of no right but its own, and sacrifices the supreme interests of society to its inveterate hatreds. There are no limits to its threats and violence; no regard for what is just and holy; no fear, in these men, of leading their own country, this country with such a glorious past, to ruin, this country that the providence of the Most High had chosen to lead the nations, with the banner of the cross in hand, in order to make flourish...

[*Latin ed. p. 268*]

268 Everywhere, sound doctrine and the arts flourish, the benefits of which distinguish the civilized world from barbarian peoples. Without a doubt, this blind outburst of hatred reveals a kind of madness, of which We lament. To this must be attributed those vexations of every kind directed against the Catholic religion and its ministers, against the public worship due to God, against the very foundations of Christian life (which, nevertheless, are also the source and safeguard of true humanity). And this, without any serious reason, without any appearance of justice, motivating such attacks: either against sacred things, those very things that current public institutions are obligated to protect; or against citizens to whom, at the very least, the enjoyment of common rights should be guaranteed to all others. Nevertheless, in the midst of this furious storm that threatens to overturn the salutary work undertaken by Us in concert with all those in whom the love of religion and of the fatherland has not waned, the greatest care must be taken to ensure that, among the faithful French, courage and strength do not fail; and, as for Us personally, We feel obligated to constantly maintain Our solicitude for your salvation, so that nothing, in the midst of such grave circumstances, may prevent Our constancy from remaining firm in the resolutions made. Moreover, more than one reason presents itself to lift up our souls plunged in sadness, and to strengthen our courage in the pursuit of what has been begun. You will find the first in the testimony of your conscience, when it shows you what is beautiful in striving for the salvation of the religion and the fatherland, precisely when times become more difficult and circumstances more critical. While you meditate on this lesson, the words with which the Prince of the Apostles consoled the faithful will naturally come to your mind: "If, while doing good, you suffer trials, that is what will make you pleasing to God." And again: "It is a grace, if the servant of God feels the weight of sadness, when he sees himself subjected to unjust treatment, in remaining faithful to his conscience." These thoughts will become even more comforting when added to them is the confidence in divine help, which never fails.

[*Latin ed. p. 269*]

Letters 269: Do not despair when you are afflicted, and consider the blessings promised to your constancy, as a reward for such arduous labors. Do not forget, either, that all the evils which afflict you originate from the

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hatred of a shadowy society, an implacable enemy of the Catholic faith, which expresses neither the true sentiments nor the genuine intentions of your noble nation. No, this nation, left to itself, would never approve of this relentless war, which delights in persecuting the innocent, overturns the most fundamental notions of liberty and justice, corrupts the morals of the people, invites upon itself the contempt of civilized nations, and isolates it from all those who still understand that public order and happiness are founded upon the worship of religion and the respect for authority. These reflections confirm in Us the hope that this storm cannot last long, especially if We recall that, according to the divine oracles: "God will not abandon the just forever." We desire that these same hopes sustain and comfort you, and all the bishops of France; and We exhort you to spare no effort so that the clergy, of whom you are the leaders, may support your endeavors in this regard. Let them diligently maintain constant contact with the faithful; let them provide them, for both body and soul, all the assistance they can; and let them be able to explain to them the teachings emanating from Us, the substance of which is this: "To avert from the French nation two grievous misfortunes: the overthrow of religion and the decline of morals." The eagerness of all the leaders of the dioceses of France to follow this course leaves no doubt in Our minds, when We recall all the previous pledges of their good will towards Us; and We are convinced that, in your case in particular, you will be most eager to proceed along this path. Relying on this confidence, venerable brother, We most affectionately grant to you, and to your clergy and the faithful entrusted to your care, Our apostolic blessing. Given at Saint Peter's in Rome, on the 31st of October, in the year 1892, in the fifteenth year of Our pontificate. LEON XIII, POPE.

[*Latin ed. p. 270*]

270 LETTERS (Latin Version) Your letters, dated October 25th, have wonderfully fulfilled our expectations and fully satisfied our desires, as they recount the actions you have undertaken in recent times, so that the clergy, in accordance with the documents in our Encyclical and in other writings which we have provided concerning the present condition of affairs in Gallia, may render accounts of their lives. This exposition of events, which you have already presented, has been a great source of comfort to us, and we have felt our hope greatly increased that this dual state of souls will, in due time, receive a fitting reward from the eternal Shepherd of the Church, whose office we hold. But, alas, this cause for joy has been overshadowed by a cloud of sadness (may it vanish as quickly as possible!), as you recount to us the obstacles, quite without reason, which are being placed in our way by adversaries, so that our benevolent intentions and our constant efforts may be hindered from achieving the much-desired result, which is the salvation and prosperity of the Gallic

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people. Alas! What bitter and ever-increasing anxieties this spectacle causes us, as we behold the Church of God here afflicted by tribulations, and in a certain way wounded! As if it were not enough that we are here surrounded by sorrows and anxieties, we are even compelled to share in the griefs which afflict just and devout bishops, clergy, and people, who are devoted to the religion of their fathers, and who are determined to remain steadfast in it at any price. Indeed, the testimonies of our paternal love for you have been shown repeatedly, and our constant efforts to ensure that peace may reign in your homeland, as those who are endowed with a righteous heart and prudence invite to concord, seem to have, in some of you, aroused long-extinguished anger, who in public affairs admit nothing other than their own rights against the Church; and who, with ancient hatred, seem to sacrifice even the highest reasons of human society, and to revive, almost extinct, resentments. No limits are imposed on these threats, no bounds to this outrageous violence; nothing that is just and holy...

[*Latin ed. p. 271*]

Letter 271: It is a most grievous thing that men of this sort should drag their own country down into the abyss; that country, I say, which was once so glorious, which the Most High chose as its leader, so that, bearing the banner of the Cross in its hand, it might lead the people, so that sound doctrine and the arts, through which the benefits conferred upon it distinguish the civilized nation from the barbarian tribes, might flourish everywhere. Undoubtedly, this blind hatred and unrestrained fury display a certain kind of madness (which we lament). Indeed, all manner of vexations are to be attributed to this hatred, which are inflicted upon the Catholic Religion and its ministers, against the public worship of God, and, in other words, against the very foundations of the Christian life (which are, nevertheless, the true sources and guardians of humanity). This, therefore, has been the cause of these crimes, not less against all sacred things, which today public institutions ought entirely to protect; than against the citizens, whose rights, at least those common to all, ought to be safeguarded and defended. However, in this furious storm, which threatens to overthrow the salutary work that we, together with all those in whom the love of Religion and the Fatherland is not yet extinct, have happily begun, the greatest care must be taken that the strength and spirit of the faithful do not fail. Meanwhile, as far as we are concerned, we feel it is our duty to vigilantly watch over your well-being, so that nothing in this so grave a situation may ever undermine our constancy, so that we may firmly maintain what we have resolved. Furthermore, many offer themselves to us, so that we may not despair, but rather strengthen our efforts to carry out the work begun. You will find the first reason for this in the testimony of your own conscience, which shows you how glorious it is to strive for the safety of the Religion and the Fa-

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therland, especially when times become more grievous and circumstances more difficult. While seriously considering these things, the words spontaneously come to mind with which the Prince of the Apostles comforted the faithful: "For what glory is it, if, committing sin and being buffeted for it, you endure? But if doing well you suffer patiently." 1 Peter 2:20. And also: "For this is the glory of God and the acceptable sacrifice."

[*Latin ed. p. 272*]

272 "Letters of God sustain the conscience of those who suffer injustices." Ibid. Such thoughts are even more comforting if, trusting in the divine help, which, if rightly invoked, will never fail, and if the hope of good things, which are promised as the reward for your constancy, are readily available to you. Please, never let it escape your memory that all the evils that afflict you originate from the hatred of a certain dark faction, implacable in its cruelty, which is moreover hostile to the Catholic faith and shows no respect for the noble sentiments of this nation, nor for its true will. This nation, if it remains true to its liberty, will never be able to approve of this cruel war, which is waged against any and all just men, and which undermines the very foundations of liberty and justice, perverts the morals of the people, provokes contempt for the civil customs of other nations, and finally, separates the French people from all those who still understand that public order and decency are based on the worship of religion and the respect for authority. These serious considerations will strengthen your confidence that this storm will not last long, especially if we recall that divine oracle: "He will not suffer the just to fall." Psalm 54. We indeed desire that this same hope sustain and strengthen all the Bishops of France; and we urge you to spare no effort, so that the clergy under your guidance may readily embrace your efforts, as we have indicated; so that they may take care to maintain a bond of mutual fellowship with those subject to them; so that they may generously provide all the assistance necessary for the salvation of their bodies and souls, as far as they are able; and finally, that they may diligently explain to them the documents that we have entrusted to them, the sum of which is this: to avert from the French nation these two terrible evils – the subversion of religion and the corruption of morals. We do not doubt that the Bishops of France will show diligence in observing these our instructions, since we remember the pledges of their good will, which they themselves have given us in times past; and as for you in particular, we are confident that you will show the greatest care in carrying this out. With this hope, we safely placed in you, to you, Venerable Brother, and to your...

[*Latin ed. p. 273*]

273 To the Clergy, and to all the Faithful, to whom your care is entrusted, we impart our Apostolic Blessing with paternal affection. Given in Rome,

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on the thirty-first day of October, in the year of Our Lord 1892, in the fifteenth year of Our Pontificate. LETTERS OF LEO XIII, POPE. Letters from the Most Holy Pope Leo XIII to the Bishop of Padua, President of the honorary union for the promotion of social studies in Italy. We gladly acknowledge, from your letter dated the twenty-fifth of October, the prosperous outcome of the meeting which several Catholic men devoted to the social sciences held last month in Genoa. First of all, we attribute this to the benevolence of the Highest God; then, we acknowledge your diligence present there, knowing that you were diligently attentive to all that needed to be done, as well as to the learned men who, under your guidance and auspices, lead the Catholic Union for the promotion of social studies. — As you write, the resolutions of the recently held meeting included the publication of a periodical intended for the general public, which would treat of social sciences and be a herald and defender of the sound doctrine that flows from the fountain of Catholic truth in this field of study; this is highly pleasing to Us; and if it has been carried out prudently and skillfully, as we trust it has, it will be most welcome to Us, as it is most pleasing. Indeed, we understand that this undertaking is inherently most noble, and it is also highly appropriate to the present times and circumstances, and it is most suitable to the desires of young people interested in these sciences. Therefore, to all those who, under your watchful eye, will devote their study and effort to this work, we earnestly invoke the light of heavenly wisdom and the protection of divine grace, and we impart to you and to them, as well as to the clergy and the faithful entrusted to your care, our Apostolic Blessing with paternal affection. Given in Rome, at Saint Peter's, on the third day of November, in the year of Our Lord 1892, in the fifteenth year of Our Pontificate. LEO XIII, POPE. Acts, Volume XXV, page 293.

[*Latin ed. p. 274*]

274 LETTER of the Most Holy Pope Leo XIII to the Bishops of Italy; urging them to act vigorously against the Masonic sect. The inimical power, impelled by the impulse of a wicked demon, having long been accustomed to hide under a Christian name, has always attached to itself certain men, associating them together, so that they might, with devoted efforts, pervert the divinely revealed doctrines, and strive to undermine the Christian commonwealth through grievous dissensions. And these, like cohorts composed for attack, no one is ignorant of how much devastation they have brought to the Church at all times. - Indeed, among the sects, however many there have been previously, that spirit has revived which is called the Masonic sect, which, with great power and resources, and wielding a most fierce flame of war, attacks whatever is sacred. This sect, as you well know, has been condemned not once, but repeatedly, by the Roman Pontiffs who preceded Us; and We Ourselves, as was fitting, have condemned it, strongly warning the Christian people to avoid its snares, and to bravely

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refute its nefarious efforts, as befits the servants of Jesus Christ. Moreover, lest apathy and slumber prevail, We have diligently sought to reveal the mysteries of this most pernicious sect, and, as it were, with a pointed finger, We have demonstrated by what means it strives to bring about the ruin of the Catholic cause. - Nevertheless, if we are to confess what the situation is, many Italians, through a certain carelessness and lack of foresight, either do not see the magnitude of the danger at all, or they do not measure it according to truth. But the ancestral faith, obtained through the name of Jesus Christ, and that which follows, the benefits of Christian humanity itself, are being put in danger. Indeed, the Masonic sect, fearing nothing, yielding to no one, dares greater and greater things daily: it has invaded entire nations as if with a contagion, and it strives more and more each day to involve itself in all the institutions of the state, conspiring, as is commonly the case, to tear away from the Italian people the Catholic religion, the principle and source of the greatest goods. - Hence, infinite arts are employed to attack the divine faith; hence, the freedom of the Church, established and oppressed by legitimate laws, is scorned. In the Church, in both doctrine and practice, there is no violence, but reason.

[*Latin ed. p. 275*]

LETTER 27. It is fitting that the state should exist, and that civil authority should be subordinate to the sacred power. From this pernicious and false doctrine, which has often been condemned by the judgment of the Apostolic See, many evils result, especially that the governors of the civil order believe that they are not subject to any authority, and do not hesitate to attribute to themselves whatever they have taken away from the Church.

You see how dangerous it is in ecclesiastical benefices to grant, or to deny, the right to receive the fruits, at one's own discretion. And no less insidious is the plan to entice the clergy of lower orders by promises. It is easy to see where this leads, especially since those who are the authors of this scheme do not sufficiently care to conceal their intentions. They intend, in fact, to lure the ministers of the sacred rites into their ranks, and once they have gained them, to tear them away from obedience to legitimate authority by means of novelties. Although it seems that our clergy have not yet fully understood the power of this evil: for those who, for so many years, have been trained in so many ways, have given examples of abstinence and faith, are not obscure, so that we can confidently trust that, in the same faith and office, whatever times may come, with God's help, they will remain steadfast. But from what we have briefly touched upon, it is clear what the sect of the Freemasons also seeks, and what it aims for in the end. What increases the evil, and what we cannot contemplate without great concern, is that many of our own people are counted among those who, under the name of the sect, or through its influence, are subjected to their hopes, their usefulness, and their miserable ambition.

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Therefore, Venerable Brothers, we appeal to your episcopal charity, and, urged by the consciousness of our duty, we especially ask that the salvation of those we have just mentioned be your concern: that you strive constantly and diligently to bring back those who are certain to perish from error. It is certainly a difficult and uncertain task to heal those who have been entangled in the snares of the Freemasons, if one considers the nature of the sect. However, no one should despair of healing, because the wonderful power of apostolic charity is such that, with God's help, the very wills of men are in His power and subject to His judgment. Then, we must be vigilant on every occasion, so that even those may be healed who sin in this matter through timidity: that is, those who, not through their own wicked nature, but through weakness of spirit and lack of counsel, are led to favor Masonic undertakings. Very grave is the opinion of our predecessor, Blessed Felix III, on this matter: "Error, to which no resistance is offered, is approved; and truth, which is not defended, perishes."

[*Latin ed. p. 276*]

276 The letter reveals that some are hesitant and oppressed. There are those in the society who are troubled by the fact that they do not actively oppose evident wrongdoing. It is necessary to raise the spirits of these individuals by presenting examples of the past, by emphasizing the importance of duty and dignity, and by fostering courage, so that they may feel utterly ashamed of doing or having failed to do something in a cowardly manner. For our entire life is dedicated to a certain struggle, in which our salvation is determined, and nothing is more disgraceful to a Christian than to falter in his duty through laziness. Furthermore, we must support in every way those who are falling due to imprudence: we know of individuals, not a few in number, who, having been caught up in deception and various temptations, allow themselves to be entangled by the Masonic society, unaware of what they are doing. There must be great hope for these, Venerable Brothers, that, at times, with God's help, they may abandon their error and see the truth, especially if you, which we earnestly request, strive to expose the false appearance of the sect and to reveal the hidden machinations. Although these may not yet seem entirely obvious, they will become clear later, as they themselves, in many ways, will betray themselves. In recent months, the voice has been heard again throughout Italy that the plans of the Masons extend even to open declarations. They intend to completely reject the religion established by God, and to administer everything, both private and public, according to the base principles of naturalism: and they impiously and foolishly call this a restoration of civil society. What will become of the state, therefore, if the Christian people do not take to heart the need to be vigilant, to work, and to strive for salvation? But in the face of such audacity of evil, it is not enough merely to avoid the insidious traps of this most vile sect: it is also necessary to engage in battle; and this must

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be done with the weapons derived from divine faith, the very weapons that were once effective against paganism. Therefore, it is your duty, Venerable Brothers, to inspire, encourage, and lead by example, and to foster in our clergy and people a diligent, constant, and fearless zeal for religion and salvation, as we often see flourishing among Catholics from other nations in similar circumstances. It is commonly said among the Italian people that the fervor of spirit in defending the faith has waned. And perhaps this is true: for if we consider the attitudes of both sides, it seems that those who wage war against religion exert more effort than those who defend it. But for those who desire salvation, there is no middle ground between a strenuous struggle and ruin. Therefore, it is your duty, with your help, to awaken virtue in the lukewarm, and to preserve it in the zealous.

[*Latin ed. p. 277*]

LETTER 277, and in order that, with your guidance and support, all may descend into the contest with one mind and the same discipline, having extinguished every seed of discord. Having perceived the gravity of the matter, and the necessity of preventing danger, We have decreed to summon the people of Italy itself through letters.

We have taken care that these letters, together with these [letters] addressed to you, Venerable Brothers, be delivered: and it will be the duty of your diligence to spread them widely among the people, and, where it seems necessary, to explain them to the people. In this way, may God be pleased to grant that the minds of those who are contemplating evils may be aroused, and that they may turn to the remedies which We have indicated, without delay. As a pledge of the divine benefits, and as a witness of Our benevolence, We impart to you, Venerable Brothers, and to the people entrusted to your care, Our Apostolic blessing. Given at Rome, near Saint Peter, on the eighth day of December, in the year 1842, in the fifteenth year of Our Pontificate. LEO XIII, Pope.

[*Latin ed. p. 278*]

278 FROM THE HOLY CONGREGATION OF THE COUNCIL OF PATAVINA, CONCERNING PRIVILEGES AND FUNERALS, December 12, 1891. Session 25, chapter 12, Concerning Reforms. The Bishop of Patavina reported: The Holy Congregation was informed that, according to an ancient custom, the vicars forane of the Diocese possess the right of precedence in the choir and in the performance of sacred functions, both within and outside the limits of their respective vicariates, with the participation of the parish priests. By a decree of the Most Reverend Dondi in the year 1817, it was established that the duty of performing the funeral rites and of celebrating Mass for each deceased parish priest belonged to the vicar forane, with the right to receive the customary fees for funerals. In the year 1823, it was added that if the vicar forane was unable to

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perform this duty, the right devolved to the senior parish priest, until a pro-vicar forane could be appointed. These rights have remained intact until now; but now, the parish priests of the Diocese believe that these two aforementioned rights do not properly belong to the vicar forane; therefore, the right of precedence should belong to the parish priest of the parish church, and the right of performing funerals should belong to the spiritual administrator, if one is appointed, or to the senior parish priest in charge of the parish. The vicars forane have requested the Ordinary to preserve these rights, not because they can maintain them by law, but out of favor. A Synopsis of the Arguments. WHAT IS OBJECTED TO THE VICARS FORANE. In favor of the opinion of the parish priests, it was noted that, according to De Luca Misceli, book 1, number 22, vicars forane possess only an accidental, precarious, or provisional jurisdiction, and therefore the term "prefecture" is not entirely suitable for them. Hence, Ferraris writes: "The general vicar is established in dignity; on the other hand, the vicar forane, unless dignity is conferred upon him from elsewhere." Glossa loc. cit. Gleni. Even though the principal and

[*Latin ed. p. 279*]

PATAVINA 279: "Doctors commonly [agree]." And elsewhere: "A vicarius foraneus, by reason of his vicariate, has no precedence in the choir, sessions, processions, and other ecclesiastical acts over the parish priests, canons, and presbyters, who are older and more worthy; but the vicarius himself must stand, sit, and walk in the place of his reception and dignity, as if he were not a vicarius foraneus, both with and without the cope, notwithstanding any order of the Bishop to the contrary, except in congregations which are held monthly by order of the Bishop, in which he must precede all as the Bishop's delegate; but not in processions, Mass, and other things which are done before the congregation." This opinion, however, is derived from several decisions of the Sacred Congregation of Rites, among which it suffices to mention the ones from Brundusina, November 7, 1600; Oritana and Catanen, of the same day and year; Marsicen, Spoletana, and Bononien, of April 11, 1601, etc. And nothing unusual in the custom of the Patavina diocese concerning vicarii foraneis would be detrimental; indeed, the aforementioned author notes in the same place that the Sacred Congregation of Rites declared in Syracusana, on June 8, 1630, that vicarii foraneis cannot claim precedence over the rest of the clergy, "notwithstanding the contrary custom." Furthermore, the parish priest of Montegalda, citing other authorities, reports in another response of the Congregation of Sacred Rites, dated June 16, 1663, that, with regard to these matters, the custom "had been rendered null and void, even if it had been memorable." And indeed, considering the ease with which such observances could gradually disappear without sense due to the delegated authority of the vicarius foraneus in small towns, it would not be entirely inappropriate

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to invoke chapter 5 of the Rules of Law: that which is introduced secretly, or by force, or by other unlawful means, must not have any stability. Therefore, it would seem that the observance prevailing in the Patavina diocese is entirely to be condemned. Furthermore, precedence in all ecclesiastical functions within the limits of the vicariate is due first to the parish priests of the mother church, if they are present, and then to the others according to their dignity.

[*Latin ed. p. 280*]

280 The parish priest of Montegalda argues that the antiquity of his church's founding document, if it exists, should be considered, and then, according to the dignity or antiquity of his church, as suggested by the nature of the matter under discussion, other factors should be taken into account. As De Luea De Regni notes in *Disputationes*, 19, heading 3, it would be unreasonable for daughters to precede their mothers, and to deprive them of the honor due to them. Therefore, the authors teach that the antiquity and dignity of the church should be considered in relation to the preceding parish priests, and not the antiquity or personal dignity of those same parish priests. Regarding this, Ferraris, in the cited work, states: "The precedence among parish priests or vicars of parochial churches is given according to the prerogative of their churches, as held by the Most Holy Roman Church in the decree of Ästen, March 21, 1669." Barbosa, in *Summa apostolica*, decisions, under the word "Parochus," number 5, and others, agree with this. Regarding the other point of contention, it must be stated that the right to perform funeral rites is a private right of the parish priest, since it arises from the right of the parish priest to administer the sacraments and sacramentals, as stated in canon 1, question 1. Therefore, since the authority of a non-resident vicariate does not in any way include the exercise of the parochial ministry, and only pertains to external matters, it follows that, in this case, the decrees of the Bishop would be clearly exceeding the bounds of common law. Therefore, Monacelli, in *Apparatus Formularii practici legalis*, part III, Instruction 4, number 9, states the following regarding non-resident vicars: "By reason of their office, and when they have not been called [to a specific task], they should not interfere in the performance of solemn ecclesiastical functions in parochial or collegiate churches... since this pertains to the rectors and canons of those same churches." Therefore, in the case where a parish priest has died, the rights to perform the sacred functions devolve to the one who governs the vacant church. If, however, an administrator has been appointed by the Ordinary for the vacant parish, it should be said that the aforementioned rights pertain to him, since he also holds ordinary jurisdiction by law, and he exercises the care, and all other parochial functions, acting as a parish priest, for whose place he is a substitute in care and office. It is indeed the

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case in law that...

[*Latin ed. p. 281*]

PADUA, 281. By law, the successor steps into the place of the one to whom the right has been transferred, both in advantages and disadvantages. Cap. 1. Concerning the Office of the Vicar. Rota Decis. 252, n. 7, par. 5, recent. Furthermore, custom cannot be alleged here with effect, not only for the reasons already given, but also because, having begun in the year 1817, it lacks the requirement of being immemorial, since "an immemorial custom cannot be granted after its beginning." Pitonius, De controversiis patronorum, allegation 5, n. 6. Finally, regarding the petition of the Vicars that something be granted to them by grace which does not belong to them by law, it should be observed that the matter entirely depends on the liberality of the Supreme Prince, who, however, is accustomed to safeguard the rights of third parties when granting favors, according to what is stated in chapter 17, De regulis iuris, section VI: "An Indult is not a benefit that should be taken away from anyone by law."

WHAT IS FAVORABLE TO VICARS FORANE. Nevertheless, it has been noted in favor of the Vicars that, although precedence in processions and other sacred functions is generally denied to Vicars Forane, there are nevertheless doctors who affirm that custom should be observed in this matter. Among these, Monacelli, Fonniä, legal, preface, part I, form. 4, v. G, states: "A Vicar Forane, by reason of his office, does not precede other priests, unless there is a custom." And he repeats this several times, citing the authority of Barbosa, Summ. decis. apost. collect. 720, and Nicol, in flosc. r erb. vicarr>, chapter n. 82. And rightly so: for it is no secret how much force there is in custom, especially an immemorial one, as is the case here, as is stated in the Rota in Praenestina, March 23, 1819, p. 3, cor. Martine: "He who enjoys a centennial possession is, with greater force than an immemorial one, certainly supported by some better and more powerful title and by law." Is it a pact? Is it a privilege? All these things, and whatever else you may desire, are presumed from a centennial possession." Furthermore, it has been shown in the matter of precedence that custom has great value, and in the Sacred Congregation of the Holy Office, from Papien, Concerning Precedence and the Transfer of the Cross, August 14, 1880: - ibid - "Custom in this matter makes both sides, as noted by the Rota in recent, part 18, decis. 781, n. 6.

[*Latin ed. p. 282*]

282 PADUA and decree 232, no. 2, before Olivario. Pignatelli, vol. 6, section 67, no. 5. Sacred Congregation of the Holy Council in Acerenza, August 23, 1879, § Omnis. Although this observance may be contrary to the disposition of law, it is nevertheless said to provide a rule for establishing precedents, even if it prefers the less worthy; as the Cardinal De Luca

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notes in his Annotations to the Council of Trent, discourse 19, no. 2. Sacred Congregation in Casale, May 25, 1817, § Hoc primum. Therefore, it must be concluded, as the aforementioned Monicelli states in loc. cit., part III, form 7, no. 18: "If in any church, by an immemorial custom, a foreign vicar, by reason of his office, precedes other priests, even elderly ones, this must be observed, because in matters of honor, once the deformity of the precedent is removed, custom alone makes all the difference." Regarding the right to perform the funeral rites of a parish priest, even here, custom, supported by episcopal decrees, seems to favor foreign vicars. Although the right to perform funeral rites pertains to the parish priests, it would not necessarily follow that no exception can be made in this matter. Indeed, more examples could be cited in which this right has been derogated from, either by a special law or by a privilege. It is sufficient to note that a practice exists in the city, confirmed by the Statutes of the Roman Clergy, whereby the right to perform the funeral rites of parish priests is granted to the chamberlain, although the emoluments of the funeral do not belong to him. Finally, whether concerning this point of the matter, or concerning the prayers offered by foreign vicars, the Primate of Padua seems to express himself as follows: 1. I believe that the right of precedence and of leading the funeral for deceased parish priests pertains to them, and to no others, because foreign vicars excel others in doctrine and morals, and because there is no canonist who denies that this right pertains to the same foreign vicars in matters relating to the expenses of funerals for deceased parish priests. 2. It could be argued that a prescription against the parish priest could be invoked, and that, in favor of the foreign vicars, usucapio, or the acquisition of a right by use, could occur through the use of this right for 73 years without any opposition. 3. Furthermore, the Ordinary states that a custom exists in many vicariates, whereby the vicar and the clergy of the entire vicariate perform these services free of charge.

[*Latin ed. p. 283*]

PADUA, 283. On other days, he is accustomed to conduct the funeral rites at his own expense, with the assistance of the spiritual administrator, and of other priests who are called. 4. The vicars forane, following the Ordinary, seek to have the right of performing funerals preserved for the parish vicars of their vicariates, and they send notices to them, stating that, as much as possible, this right should be exercised with the favor of the spiritual administrator, if he is present, or of the parish priest, by reason of seniority, or of the widow of the Church. Considering these matters, the Prelate prays that both rights may be preserved for the same vicars, unless otherwise stipulated, but by grace. With these preliminaries, the following questions were proposed for consideration: I. Whether vicars forane should be given precedence over the other clergy in the vicariate in the performance of sacred functions in this case. II. Whether the same vicars forane should

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be granted the right of performing the funeral rites of deceased parish priests, according to the episcopal decrees, in this case. And, to the contrary, whether both or either of these should be denied. III. Whether and how the prayers of the suppliants should be received in this case. RESOLUTION. The Sacred Congregation, having considered the matter on December 12, 1891, decided to respond as follows: To I, affirmatively. To II, affirmatively, according to the manner described in the letter of the Bishop under number 4. To III, provisionally. FROM WHICH WE MAY GATHER: I. That there are not lacking those who grant vicars forane precedence in the performance of sacred functions, maintaining that the custom should be observed if it exists; because custom, especially if ancient, creates a better title in this world; while the vicar forane, by reason of his office, does not precede other priests. II. That vicars forane enjoy the privilege of precedence over others in the performance of sacred functions and in the performance of the funeral rites of deceased parish priests, but without receiving any emolument.

[*Latin ed. p. 284*]

ACQUI. MARRIAGES. May 30, 1891, and July 23, 1892. Session 24, chapter 1. Concerning Reforms. SUMMARY OF FACTS. On May 2, 1867, in the Church of the Blessed Virgin Mary Assumed into Heaven, located in Lambisci, in the Diocese of Acqui, in Gallus, Charles Bayer, a German craftsman who had become a convert, and Theresia Fortunata Jaubert, a young woman of 19 years of age, were lawfully married. However, these nuptials did not have a happy outcome. For the quarrels and contentions that arose from the beginning escalated to the point that the woman, after six years, unable to endure the husband's vexations any longer, sought a separation of body and goods from the civil tribunal of Acqui. This was granted on August 6, 1874. The husband, having abandoned Gallus, went to Neo-Eboracum, from where he occasionally sent letters to a certain person residing in Massiliae, for business reasons. But since, after two years from his departure, no one knew anything further about him, the wife, as she claims, following the advice of some grave and religious persons, again appeared before the civil court and obtained a decree of divorce. Indeed, since both she and those who advised her were convinced that Charles's prolonged silence could not be explained otherwise than by his death, she intended to enter into new marriages with a certain Mr. Richard. To this end, if you believe her, she had already taken certain preliminary steps for a civil marriage, as they say, and then she approached her own parish priest in order to see if he could also perform an ecclesiastical marriage. However, the parish priest absolutely refused to perform his ministry, citing an impediment to the marriage due to the insufficiently proven death of the husband, and therefore the dissolution of the previous marriage. Therefore, Fortunata, wishing to provide for herself, did not hesitate to attempt new marriages before the civil magistrate with the aforementioned Mr. Richard:

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which she accomplished on November 26, 1886. Afterwards, however...

[*Latin ed. p. 285*]

AQUÉN. 285. Urged on by the demands of science, she approached the diocesan court and, presenting a petition, earnestly requested that the marriage contracted with Charles Bayer be declared null, stating that she had recently learned that a certain fear prevented her from legitimately entering into marriage. The diocesan court received the petition, and, with a duly constituted tribunal, began to examine the cause of the alleged nullity of the marriage, based on the grounds of coercion and fear, before the tribunal of Benedictine Order, on February 14, 1888, and concluded on July 17 of the same year, rendering the judgment: "It is established that there is nullity." The defender of the marriage appealed this judgment to the Holy See.

A SYNOPTIC DISCUSSION. THE OPINION OF A THEOLOGIAN. This theologian states that it is unnecessary to dwell on the general principles by which such cases as this and similar ones should be governed. Certainly, grave fear invalidates marriage according to ecclesiastical law, and, according to some, even according to natural law. It is required that the fear be unjustly imposed by a free and external cause, with the intention of preventing the marriage. If either of these conditions is lacking, no matter how grave the fear, it does not constitute an impediment. Furthermore, when speaking of the gravity of fear, one must not consider absolute terms; for a force that would not affect a strong man may sometimes instill a truly grave fear in a woman, especially a younger and more timid one. Therefore, whenever the issue of fear instilled in a young woman to extort her consent to marriage is raised, it is necessary to leave more to the prudent judgment of the judge, so that, considering the character and circumstances of both the one experiencing the fear and the one instilling it, a judgment may be formed as to whether the fear was grave in each individual case. The advocate for the woman presents evidence of the coercion and fear, considering the time before the marriage, the celebration of the marriage, and the events following the marriage, and it is difficult to find a clearer presentation of the facts than in the arguments he puts forth regarding these three points.

[*Latin ed. p. 286*]

286. AQUÉN. Ante matrimonium: Fortunata, nata anno sexagesimo sexto, petiit Sorores Praesentationis, ut, resistendo instantiis matris quae matrimonium desiderabat, vitam religiosam amplecterer. Super hoc, testimonium Sororis Oarentinae differt ab eis quae ab actrice asseruntur. Bene notitiam habuit de Fortunata dum alumna esset. Nunquam intellexit se velle fieri religiosam. Dum adhuc alumna esset, eius mater plures propositiones matrimonii intimabat et urgebat; propter matrem, quae famosa erat in civitate, consultum visum est eam ad alium locum transferre. Quoad desiderium religionis, concordat cum hoc testimonium

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Sororis S. Eligiae, quae praeterea addit matrem esse mulierem malae famae, quae voluisse filiam nubere ad propria vitia tegenda. Hoc audivit a Fortunata. Ex his, tantum probatur quod mater valde desideraret et urgeret matrimonium filiae suae; et diluuntur ea quae de vocatione religiosa ab actrice proferuntur. Testis Rosa Long, matertera Fortunatae, contra affirmat violentiam omnigenam adhibitam a matre, minas, et verbera. Testis Rosa, uxor Autheman, audivit a Fortunata se non amasse Bayer et parum contentam esse illo connubio; die matrimonii, audiens gressum ad portam domus, exclamavit: "Ecce venit monstrum!" Confirmat quod dicitur de ingressu ad magistratum, scilicet repugnantem Fortunatam a matre impulsam fuisse dicente, "tempus non est amplius haesitandi; quid de te dicetur?" Iam vero, si testimonium Rosae Long acciperis, nihil in assertionibus invenitur certum et indubium de vi praetensa. Colligitur matrem valde desiderasse matrimonium et sedulo requisivisse coniugem, quem zelo excessivo filiae suae commendat, res in nulla regione insolita. Sane, modus talis agendi minime laudandus; sed omnino insufficiens ad constituendum metum in sensu iurium. Contra, clarum, immo nimis clarum et apertum est testimonium Rosae Long, sororis matris Fortunatae, quae affirmat coactionem, violentiam matris erga filiam, affirmat pariter desiderium ingrediendi religionem, uno verbo, omnia quae.

[*Latin ed. p. 287*]

287. In the arguments presented by the advocate, there are points which, if certain, would necessitate a declaration of nullity. However, these points are not certain. Firstly, no word is uttered from which it can be inferred that the witness saw any act of violence. Therefore, the witness is only informed by hearsay regarding the principal matters, and it is reasonable to suspect that the words are those of Fortunata, as reported by Rose. Furthermore, the fact that this marriage was of little benefit to the girl, that her mother greatly desired it and urged it prematurely, does not immediately raise an impediment of fear, unless we wish to invalidate countless marriages. Nor am I greatly moved by the alleged threats and expressions of violence, reported in a vulgar manner: for everyone knows that such things differ in effect among people of different social standing; what sounds forceful in the ears of all, threats and injurious and reproachful words that constitute a serious coercion, might scarcely cause slight alarm in a girl of inferior status. On the other hand, there is the testimony of Mr. Mornand, who knew the Jaubert family well, both before and after Fortunata's marriage. He testifies that the mother greatly desired the marriage of her daughter, that several young men proposed to her, and in particular, Charles Bayer, because the mother had promised money in order that the marriage might take place. The witness speaks of the mother's solicitations for her daughter to marry; then he says, "I never heard, either from the daughter or from the mother, of any threats or violence having been used to compel her to marry." "I

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believe that the mother's promises and solicitations effectively influenced this marriage, but nevertheless, I believe that if the girl had not wanted to, they could not have forced her." Thus also, the doctor, Gilbert, and other witnesses. These negative statements are undoubtedly certain; but since the testimonies are those of neighbors who lived in the same place as the Jaubert family, they certainly do not lack weight, all the more so because the witnesses presented by the plaintiff have spoken several times about this kind of reputation. Proceeding to the matters that accompany marriage, the Consultant states that the defendant believes the case to be so clear that no one would dare to deny that Fortunata gave her consent out of fear; indeed, according to him, the witnesses prove that a) Fortunata, even with a few...

[*Latin ed. p. 288*]

288. AQUÉN. It is alleged that, in the days preceding the marriage, she was forced by her mother to go to a certain place; b) that, the day before the celebration, while she was dining with her mother, Rosa Long, and the bridegroom, she was struck by the latter because she had said that she did not wish to marry; c) that, on the day of the marriage, while she was putting on her wedding garments, before going to the municipal building and the church, she said, upon the arrival of the bridegroom, "Behold, the monster has arrived!"; d) that she absolutely refused to go before the civil magistrate, and that her mother and the bridegroom forced her to do so; e) that, indeed, she was forcibly pushed by her mother from the doorway of the municipal building; f) that, with tears and as if turning her back, she gave her consent before the magistrate; g) and that, finally, before the priest, she remained throughout the entire ceremony filled with the same sadness and desolation. Firstly, the evidence is insufficient. Only three witnesses are presented who testify to these events, namely, Teresa Long, the mother of the actress, Rosa Long, the stepmother, and Fortunata Bosc. It is true that Teresa Long did not take an oath, and "a perjured witness does not prove" according to the axiom; therefore, only two remain, one of whom can be presumed to be overly favorable to the actress, and the other contributes little to the elucidation of the matter. Only the extrajudicial confession of the stepmother remains. Everything that is presented by the lawyer can be derived from this. The testimony of the actress herself is consistent, but it only merits doubtful credibility. Therefore, it seems that a grave fear, such as that described by the patron of Fortunata, "if it truly existed at the time of the marriage, is not proven by the witnesses presented for that purpose." Finally, the patron of the actress proceeds to the events that followed the marriage; and this for two reasons: namely, to confirm the statements made previously about fear, coercion, and conjecture, and at the same time to show that the marriage was not contracted under fear, but was validated by spontaneous cohabitation or consent. Firstly, he cites the common opinion regarding the necessity of renewing consent before the priest and witnesses

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whenever an impediment of fear is publicly known. But in this case,

[*Latin ed. p. 289*]

ACQUI. I find this doctrine to be of little relevance to the matter at hand. I do not see how it can be considered a public impediment, given that the priest and witnesses, as well as friends and neighbors of the family, are not aware of it. The defender of Fortunata attempts to support his thesis based on events that occurred after the marriage, citing the following arguments: a) Fortunata did not admit her husband to her, except after three days from the beginning of the marriage, and then only reluctantly. For this, we have the declaration of the mother, along with the confession of the actress herself; but even if we accept the truth of this admission, what does it prove? The age of the girl, 19 years old, and the circumstances of the marriage, which were far from spontaneous, do not sufficiently explain this, unless we invoke the theory or hypothesis of a grave impediment of fear. b) She never showed any sign of affection, according to Charles, who, it should be noted, did not appear at all, to her husband. Some witnesses claim this, others suggest it, and Fortunata herself confesses it. It is beyond doubt that there were disagreements and quarrels at the beginning of the marriage, and it is equally certain that the husband treated his wife harshly; indeed, due to the husband's cruelty and severity, the civil court issued a judgment of separation. It is also very likely that there was little or no love between the spouses, but what remains uncertain is the cause or origin of these cruelties. Some witnesses attribute them to the wife, who often reproached her husband, blaming him for his neglect of household affairs and his laziness, a laziness that is affirmed by almost all the witnesses. Others speak of Charles' violent and rude nature, and still others claim that jealousy was the cause. Therefore, after considering all that is found in the records of the case, I am compelled to disagree with the judgment of the court of Acqui. In my opinion, the series of conclusions that would establish the existence of an impediment of fear in this case have more of an appearance of truth than of reality; while the facts alleged barely reach the level of severity that would induce a truly grave fear, and the evidence presented in many respects falls short of the standard that cannot be overlooked in more serious matrimonial cases. Therefore, regarding the question posed by the E.E.P.P., whether it is established that there is a...

[*Latin ed. p. 290*]

290 ACQUI. Concerning the validity of the marriage in this case? I believe it is necessary to answer "No," and it should be left to the actress and the tribunal of Acqui to better conduct the proceedings. OPINION OF THE CANONIST. The Consultor, in formulating his opinion, primarily asks whether the marriage between Fortunata and Charles Bayer, at the time it was contracted, was null due to fear. To this doubt, I believe an

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affirmative answer should be given. Indeed, from the process records, it is clear that Fortunata entered into the marriage either under absolute and grave fear, or at least under relatively grave fear. Regarding the former, absolute fear is said to be that which would affect even a steadfast man. Therefore, the gravity of the fear, whether absolute or not, is measured not by the condition of the person affected, nor by the quality of the end for which it is instilled, but rather by the nature of the cause from which it arises. As Reinffestuel states in *Lib. 1, tom. 40, de iis vi metusve causa fiunt*, the gravity of the evil from which the grave or overwhelming fear arises must be considered based on the nature of the evil itself, and not on an unfounded estimation by the person experiencing the fear. Indeed, as the proceedings recount, Teresia, Fortunata's mother, used such means to induce her daughter to marry that they appear to be suitable for generating absolute and grave fear. From various testimonies, it can be gathered that Teresia was a woman of impetuous and unusual behavior, as are those persons in whom the lust for their daughter dominates. Indeed, the character of this woman is said to be so violent that even her husband would greatly fear her. Furthermore, some witnesses testify that Teresia wanted to unite her daughter Fortunata with Charles Bayer in marriage, in order to publicly conceal her own wicked life with that young man before the citizens. Given these circumstances, it is no wonder that...

[*Latin ed. p. 291*]

291. To be considered "grave," that woman came to be subjected to things that are absolutely suitable for inducing a very serious fear, and which ought to be considered as such. First, the actress Fortunata Jaubert testified to having endured things that clearly indicate a very serious fear. From other witnesses, it is known that Fortunata was even present at a civil ceremony. Rosa Long, Fortunata's aunt and Teresia Jaubert's sister, explicitly stated that there were beatings, threats of death; and other persons testified to threats of strangulation and suffocation. As Reinffestuel teaches in L. 1, tit. 40, two conditions are primarily required for fear to be considered "grave." The first condition is that the evil feared must be serious in itself, and not merely in the empty estimation of the one fearing; such as the fear of death, the fear of beatings, the loss of liberty, etc. The second condition required for grave fear is that such a serious evil must certainly threaten, at least with moral certainty, which is sufficient in human actions. Both of these conditions are present in this case, as has been demonstrated by the testimonies presented. It is certainly true that Fortunata Jaubert entered into marriage with Charles Bayer under a relatively grave fear. The Supreme Pontiff Honorius III, in chapter *Consultatione de sponsal. et matr.*, warns that due diligence must be used to inquire into the matter of fear in such cases. Indeed, the gravity of fear should not always be determined by absolute, but rather by the most relative criteria. And in the

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chapter *Cum locum*, in the same title, Alexander III demands that each party entering into marriage should enjoy full security, so that, not through fear, they might say they consent to what they hate, and follow the consequences that often result from forced marriages. Since *cum locum* has no validity where fear and coercion are present, it is necessary that where the consent of each is required, the matter of coercion be removed. Therefore, to ascertain the cause of fear and its gravity, it must be considered not only in itself, but also, and more importantly, in comparison to the person upon whom the fear is imposed. As Sánchez De matr. says in book 4, section 3, number 3, the fear that...

[*Latin ed. p. 292*]

292. Although fear may appear light in itself, depending on the circumstances, it can be grave. This is entirely reasonable. Indeed, fear absolutely possesses the power to dissolve a marriage to the extent that it is considered suitable for inducing a serious disturbance of the mind: for this serious disturbance of the mind greatly diminishes the will, although it does not abolish it, since a coerced will is always a will. Therefore, if, in a particular case, fear, by itself light, produces the same serious disturbance of the mind, there is no reason why that fear, producing the same effect, should not have the same power to dissolve the marriage, since the entire reason for dissolution, according to our understanding of the law, is founded on a serious disturbance of the mind, or on a diminution of freedom, determined and unjustly caused. Therefore, in judging whether the marriage between Fortunata Jaubert and Charles Bayer was valid, it is necessary to pay attention not so much to the cause of the fear, but to its effect, namely, to the serious disturbance of the mind caused by an external, unjust pressure intended to extort consent, by which Fortunata entered into the marriage. All of these things have converged, as the procedural records clearly demonstrate. Given all of this, who would say that Fortunata entered into marriage with Charles Bayer without a serious disturbance of the mind? Who does not see the unfortunate daughter subjected to the insane commands, threats, and violence of her most wicked mother? Could anything ever have been more clearly verified than what Alexander III prohibits and condemns in the celebration of marriages, namely, that someone should say that they consent, when they hate? Indeed, from the testimonies given, it is clear that: a) At that time, Fortunata was so intent on embracing the religious life that she was entirely averse to any marriage; b) That her mother, Teresia, used all means, persuasions, beatings, various cruelties, and threats of death, in order to unite her with Charles Bayer in marriage; c) That not only on the day preceding the wedding, but also on the very day of the wedding, indeed, while she was going to perform the civil ceremony, she expressed,

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both in words and in actions, that she did not want the marriage.

[*Latin ed. p. 293*]

293. She declared that she had protested against it, and that, solely out of fear of violence, and other importunities and vexations, she had exhibited her physical presence, and that she had scarcely uttered words of consent. Furthermore, it must be noted that the marriage of Fortunata, at least, was begun under a considerable fear, and the unhappy outcome of that marriage abundantly confirms this, since from the very beginning, indeed, from the very first marital negotiations, until the divorce, quarrels and contentions arose between the spouses, and Fortunata did not spontaneously perform her conjugal duties; rather, she attempted everything to avoid them.

Whether the marriage between Fortunata and Charles Bayer, through six years of cohabitation, was validated. The answer must be negative, for three reasons: 1. because it cannot be presumed that the marriage was validated in this case; 2. because Fortunata was not able to validate the marriage; 3. because, even if it were supposed that Fortunata was able to validate her marriage, in fact, she did not validate it.

The marriage in this case cannot be presumed to be validated. Fear, which is an impediment to marriage, even if, according to some, it would be considered established by ecclesiastical law; however, the Church does not relax this impediment, because it would not be just to confirm and approve an injustice, and to provide support for fraud and deceit to one who has been unjustly subjected to fear. However, if the fear ceases, the marriage is validated if the one who experienced the fear intends to add her consent, and thus removes the fear. This removal of fear is presumed by law if the party who experienced the fear has spontaneously cohabited for a long time: thus, Sánchez, vol. 4, disp. 18, n. 3; Reinffestuel, vol. 4, t. 1, n. 336; or if she spontaneously engages in conjugal relations, as Reinff. states in I.c., in foro externo, it is presumed, unless the contrary is proven, arg. cap. Is qui fidem, vol. 1, I. 4. However, presumption must yield to truth: therefore, if, on the one hand, there is no evidence of a renewed consent, but, on the other hand, there is evidence of a forced union and cohabitation, then the presumption of the marriage's validation in this case cannot stand.

[*Latin ed. p. 294*]

294. AQUÉN. In the present case, this is relevant. Regarding this matter, the confession of Fortunata is of the greatest importance. For, as Sánchez states in book 1, section 45, if discord lies hidden in the heart, it cannot be proven by any other means than through the confession of the spouses; although other conjectures may also be employed. However, if the renewal of consent is not proven, nothing remains except to presume that it arose

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from a free union and cohabitation. But, because the records of the proceedings show that Fortunata neither freely entered into a union nor cohabited freely, it follows that this presumption cannot hold. This is confirmed by the records of the civil tribunal in the separation case, because sworn witnesses testified that there were perpetual quarrels between the spouses, so that Fortunata often suffered "violent injuries to the body." Therefore, if, according to the records of the proceedings, a peaceful cohabitation and union are manifestly lacking; if only from a peaceful cohabitation and union, fear is dispelled; if all the circumstances of our case do not in any way suggest even the possibility of a renewal of consent, it seems entirely necessary to conclude that the marriage of Fortunata with Charles Bayer was not renewed by six years of cohabitation, that is, for the entire period from the celebration until the separation from bed and board. Nor could Fortunata have renewed the marriage. Indeed, it is seen in law that a marriage can be renewed by the renewal of consent; but in this matter, the opinion of those who hold that, for this effect, it is necessary that the party who suffered fear should acknowledge that the marriage was null, should be followed—Mansella, *De Impotentia*, chapter 1, article 4, Reinfessius, *Festuel*, I, 4, volume 18, number 4, teaches: "Such an impediment [fear] can be removed, and the marriage can be ratified by a new consent, and this is presumed to be done in fact, if those who are aware of the previous impediment cohabit." And in the following paragraph: "The spouses themselves are no longer heard, if, after acquiring knowledge of the impediment, they still know each other carnally." And "for this to..."

[*Latin ed. p. 295*]

AQUÉN. 295. If a marriage or cohabitation, rendered invalid by reason of fear, is to be ratified, it is required that the party who experienced the fear should know that the marriage was null. This appears to be in accordance with the Instruction of the Holy Congregation for the Propagation of the Faith regarding matrimonial processes. However, he who believes that it was valid, and therefore, after consummation, an indissoluble marriage, which in reality, due to the impediment of fear, was not valid, not only has no opportunity, but neither has the liberty of appealing. He has no opportunity, because the dissolution of marriage, especially after carnal union, is considered impossible; consequently, neither does he have liberty, since he is held in the marital state by subjective necessity, that is, by ignorance. This party certainly knows that an injustice has been done to him; but just as he who does not know the injustice cannot appeal, so neither can he who, knowing the injustice, considers it irreparable. Therefore, according to the common opinion of the Doctors, in order that a marriage, null due to the impediment of fear, may be ratified by a renewal of consent, it is required that the party who experienced the fear should know that the marriage was null due to such an impediment. But in our case, it is evident from the pro-

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cedural acts that Fortunata only recently considered the nullity of the marriage; therefore, she could not ratify the marriage. Even if Fortunata could have ratified the marriage, she nevertheless did not ratify it, because it is a certain law, where the decree "Tametsi" was promulgated, or in places where its public observance has been long established, that if, perchance, any marriage, due to a public impediment, is null, it cannot be ratified unless the consent is renewed before the parish priest and witnesses. This also applies to the impediment of fear. Fagnanus, cap. De illis, de despons. imp.; Barbosa, De off. et potest. Epis., alloc. 32, n. 149; Benedict XIV, Instr., 87, n. 6; Reinff., app. de disp.), ab imp., § 13, n. 610. An impediment is said to be public in two ways: either because it is known by many as a notorious fact; or because it is known by a few, but of such a condition that it cannot be presumed to be kept secret.

[*Latin ed. p. 296*]

296. AQUÉN and Emus D'Annibale, in their Commentary on the Apostolic Constitution concerning marriage, chapter III, write: "It can be said that an impediment exists publicly in two ways: namely, legally only; or legally and in fact." Both of these are found in our case, because if we consider the condition of the persons who, out of grave fear, entered into marriage, we find that there were many of the lower class, and of a weak sex; who are very prone to talkativeness; and because it is established by their testimonies.

OBSERVATIONS OF THE DEFENDER OF MARRIAGE, *ex officio*. In the year 1867, on the 2nd of May, Fortunata Jaubert, being nineteen years of age, was married, according to the sacred form of the Council of Trent, to Charles Bayer, a soldier exiled from Prussia, with whom she lived for six years in marriage. But in the year 1874, due to the cruelties of her husband, she obtained a divorce from him, authorized by a secular magistrate; and subsequently, on the 26th of November 1886, she obtained a civil annulment of the marriage, and entered into a relationship with a certain Julius Richaud. Finally, in the year 1887, she went to the ecclesiastical tribunal, claiming that the marriage was invalid due to fear and coercion; and on the 17th of July 1888, she obtained a judgment in accordance with her wishes. However, this judgment was rightly criticized by a learned theological consultant.

I do not object to the marriage that is being discussed, but rather to the actions of Teresia Long, Fortunata's mother, rather than to Fortunata herself. This I can freely admit. But the fear that afflicted Fortunata was not, in fact, caused by her husband, and, moreover, it is not proven by the documents, as can be gathered from the testimonies of the witnesses.

Firstly, I do not object to the threats with which Teresia attempted to persuade Fortunata to enter into marriage, either with Charles Bayer or with some other young man, the number of whom I do not know. For it is

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clear that Fortunata was one who fearlessly rebuked the terrors of words. Furthermore, Fortunata had her father present. Who in

[*Latin ed. p. 297*]

AQUÉN. 297. The ineptitude of a witness is demonstrated in the opposite manner, namely, with the same utter lack of credibility as that exhibited by Teresia, who, according to witnesses, was entirely lacking in reason, and not only was she simple-minded, but also exceedingly foolish. Rosa Long, the actress's mother, testified that her mother forced her daughter to enter into marriage, and beat her; thus, the poor girl was subjected to all kinds of torments. However, she does not offer the slightest reason for her testimony, or, as they say, any basis for her knowledge; and therefore, she proves nothing, as Leuren states, *for. eccles., lib. 2, q. 640, n. 1*. What weight, indeed, can Rosa's testimony have, if the things she recounts were received by her very self from Fortunata at a suspicious time? As the nun of St. Eligius also states, who herself recounts the story of a Roman soldier, but rightly adds: "C'est Fortunée qui me l'a dit" (It was Fortunata who told it to me). Nor would Rosa's narrative gain any greater force if she were to speak of hearsay or of things heard from others. For, according to a general rule, such witnesses are not admitted in matters in which, as in the present case, irrefutable proof is required, as Leuren teaches, *loc. cit., q. 612, no. 1 et seq.*, "namely, if such witnesses are not based on the very fact itself, but on the statement of a third party, and thus they do not testify from their own knowledge, but from the knowledge of another." Fortunata, however, does not dare to assert that she was forced into marriage, not only because such a marriage had a disastrous outcome, but also before the judge, and although she is entirely inclined to amplify the efforts made by her mother to bring about the marriage, she nevertheless mentions those things that exclude any suggestion of fear. Briefly, I will proceed to the declaration attributed to Teresia Long, the actress's mother. This declaration was issued on June 25, 1888; that is, after the parish priest of Montgard, the actress's patron, who wrote the declaration, had examined the records of the case and considered the matter. Therefore, there is nothing to fear; indeed, the dignity of the priest as patron is a guarantee. In conclusion: there is no proof that the marriage, of which we are speaking, was marred by the vice of fear in a constant man. Nor is it permissible to determine in the present judgment whether the death of one of the parties was due to this cause.

[*Latin ed. p. 298*]

298. AQUÉN. In the case of a marriage between three parties, the matter is unresolved, because the records of the proceedings are silent on this issue. If this province is involved in a controversy, the moderation of the proceedings and the decision of the case do not belong to the Sacred Congregation of the Council, but to the Congregation of the Holy Office, since

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it provides suitable safeguards and has laws adapted to such investigations. Having considered these matters, the following question was to be examined: Whether the judgment of the ecclesiastical court of Apiensis should be confirmed or rejected in this case. RESOLUTION. The Sacred Congregation of the Council, after deliberation on May 30, 1891, decided to respond: The proceedings should be extended and completed according to the instructions to be given by the defender of the marriage. In accordance with these instructions, the witnesses, who had been summoned for the first time, were heard again, and the aforementioned question was again to be examined; to which the Sacred Congregation of the Council, on July 23, 1892, decided to respond: The judgment is to be confirmed. FROM WHICH WE MAY GATHER: I. When it is a question of fear instilled in young women to extort consent to marriage, more must be left to the prudent judgment of the judge; so that in each case, the judge may determine whether the fear can be considered serious, taking into account the nature and circumstances of the person experiencing the fear and the one instilling it. II. To invalidate a marriage, it is sufficient that the fear be relatively serious; the seriousness of which must be considered not only by absolute criteria, but also, on many occasions, by relative criteria. III. It is required by law that each person entering into marriage should enjoy full security, lest they say they consent to something they hate, out of fear. IV. In a particular case, fear that is in itself slight can become relatively serious if it produces a serious mental disturbance, which greatly diminishes the will. V. It seems to be the case that the marriage was not valid, not so much because of the fear itself, but because of the effect of the fear; which was a serious disturbance of the mind, caused by an external and unjust cause, to extort consent.

[*Latin ed. p. 299*]

299. NOLANA. ANNUAL CONTRIBUTION. April 9, 1892. Session 25, Chapter 2, Concerning Reforms. At the close of May of the preceding year, the Bishop of Nola, seeking a solution to certain doubts, presented the following to the Sacred Congregation: "The Cathedral Chapter of Nola has, from time immemorial, been accustomed to offer the Prelate twenty ducats at the end of each year; of which, 14 are for the Bishop, and 6 for his household." From the records of the Chapter, it is clear that this custom, originating in the year 1678, continued until the year 1889, with only a few exceptions. In the year 1890, the Chapter ceased this contribution. The Bishop, therefore, asks whether he may safely adopt this new practice, or whether he should compel the Chapter to provide a solution. In response to the Bishop's inquiry, it was written that he should set a reasonable deadline for the Chapter, within which they should either fulfill the contribution or present arguments before the Sacred Congregation, by which they believed they had the right to refuse it. Then, the Chapter, in a meeting on July 14,

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decided to persevere in its previously adopted course of action, and, after some delay, presented reasons by which it sought to influence deliberation. These reasons, as will be evident below, were based on the nature of the voluntary contribution, as well as on the reduction of the Chapter's revenues. Furthermore, the canons added that they had decreed the abolition of the contribution at a time when the Church of Nola was without a pastor, in order to demonstrate that they were not acting with malice or ill will towards the Ordinary, but rather, to address their own financial needs. The Bishop, however, expressed his disapproval of the arguments presented by the Chapter, and attempted to refute the arguments by which the Chapter sought to justify itself. SUMMARY OF THE FACTS.

[*Latin ed. p. 300*]

300 NOLAN. A Symoptical Disputation. DEFENSE OF THE CHAPTER. The opinion of the Chapter is that such a practice cannot be said to have existed from time immemorial. For, although one might claim that the custom originates from the year 1678, because other records are lacking by which it could have been noted, it is replied that it is also possible that these records do not contain this custom; and in a case of doubt, the Chapter believes that the ruling should favor its own position. Indeed, it is certain that, once begun, it cannot be said to have existed from time immemorial, but only for a hundred years, as stated by P. I. Tonius in *De Controv. Patr. Alleg.*, 5, n. 6. However, here, the canons do not believe that the Prefect should be bound by a hundred-year custom, since it is a voluntary contribution from which, therefore, no obligation could arise. And indeed, it is a well-established principle in both law that prescription does not apply to voluntary matters. As Vesembacius states in *Danel, lib. 4, tit. 3, n. 10*; Bartolus in *I*; the well-known *Codex De Praescriptionibus*, 30 years; and the Abbot in *Cap. Quoniam*, § ult., as cited in the *lit. cont.* and the *S. C. in Neapolitana seu Aversana* of the day of February 8, 1716, doubts 1 and 2, as collected by Zamboni, in the word *Sodalitium*, § 7, n. 20. Furthermore, the Chapter argues primarily from the words "ferta" or "offerta," with which the contribution is constantly noted in the chapter books; these words indicate an offering freely and spontaneously given, not from a legal obligation. Therefore, it is not permissible to change the nature of this offering, which is entirely voluntary; and it can be freely given or denied. Moreover, the canons believe that this is further confirmed by the amount of the contribution, which is in dispute; which has not always been the same, but has been very varied. For, as can be seen from the same chapter books, the sum of money offered, which was formerly counted as 20 ducats, has sometimes gradually increased to 34 ducats and more, and sometimes has barely reached 14. In addition, it is also noted that such a contribution has never been recorded among the revenues of the episcopal

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table in the administration books.

[*Latin ed. p. 301*]

In Nola, it was found that, contrary to what was alleged, this situation certainly would not have occurred, according to the records, if the matter concerned a coerced payment. However, the administrator of the episcopal table himself admits that, contrary to what the Archbishop reported, the offering was not paid by the canons assembled canonically with the Bishop, but rather by the chamberlain. Furthermore, concerning the period from the year 1803 to the year 1823, during which the canons abstained from making the annual offering, the records indicate that the word "released" was noted only four times; in the remaining years, the following was written: "The Bishop's offering, the Vicar's, etc., is not recorded for this year, and the customary gifts to others are lacking." As for the reason for the abolition, it is attributed either to the Royal decrees of February 21, 1740, and July 26, 1779, article 20, paragraphs 2 and 3, in which it is asserted that Bishops were forbidden from demanding gifts or other payments from the canons during the time of the Nativity of Our Lord, or to article IX on Avarice, page 79, of the Synod which was the last one held in the Diocese of Nola, where Bishop Tarrusio declared: "We declare abolished, and hereby confirm in the present, those coerced payments which were customarily made in obedience to the Episcopal See during the Nativity and the Pasch of the Resurrection of Our Lord Jesus Christ." They also claim that, shortly after the Synod, the payment was again made. They believe that this occurred either because the chapter considered the offering to be a gift, entirely voluntary, and therefore not subject to the diocesan law, or because the chapter and the Bishop disputed the matter in violation of the law. However, it is more likely that the Bishop intended to bring the matter back to the proper channels of common law through the Synod. Therefore, they mention that such offerings, which would impose a new burden on the beneficiaries, are generally condemned in book 3, title 12, of the Decretals, but are expressly condemned by Pignatelli, volume 9, consultation 144, and by Ursaya, Institutes, book 2, title 2, paragraph 46, where they cite a certain decree of the Sacred Congregation of the Holy Office and the Holy Roman Church, "that the Bishop ought not and cannot receive gifts or presents from his clergy." Furthermore, it is known that Benedict XIII, in the Roman Council, chapter 4...

[*Latin ed. p. 302*]

302 The title NOLANA, chapter 8, establishes: "That if, perchance, something is offered under the guise of another, whether it be gifts or hospitality, we decree that Bishops, as those who seek honor rather than reward, should refuse such gifts and hospitality." From this, it would seem that such an offering is either obligatory, and to the extent that this is openly

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disapproved of by both general law and the particular Synod of Nola; or that it depends on the free will of the Chapter, and in that case, the canons cannot be compelled to accept it. Finally, the Chapter considers several other points worthy of attention: namely, that the offering, although subject to certain conditions, was not granted to anyone while the episcopal see was vacant. If it had been an obligation, it should have been assigned to the diocesan administration, or to the successor of the Bishop, and in these times, to the civil administrator. Furthermore, since the same offering is also customarily made by the parish priests of the diocese, it would seem that both are of the same nature. However, if we listen to the Chapter, the Bishop was content that they should swear that it was a gift, and not at all a payment to the episcopal table, and although almost half of the parish priests no longer return the offering, he never compelled them to do so. And all of this is the more important to consider because the offerings to the Chapter are very small.

DEFENSE OF THE BISHOP. Nevertheless, on the other hand, one should not disregard a venerable custom; for, since the chapter books are lacking before the year 1678, it cannot be inferred that before that time the offering was not fully settled. Indeed, according to Cardinal De Luca, *De Regal*, discourse 47, n. 4, and discourse 144, n. 9, and *De Regid*, discourse 2, n. 18, etc., the principal requirement for a custom to be considered venerable is that its origin should not be contrary; therefore, the argument presented is excellently refuted. Furthermore, in law, a prelate has the right, as stated by the Rota in *Romana Oblationem*, January 25, 1725, § 5, and by the Sacred Congregation in *Avenionen. Cappellaniae*, September 16, 1780, to establish not only a venerable custom, but also a centennial custom, which is a presumption of a better and more powerful title, namely, a pact, a private—

[*Latin ed. p. 303*]

NOLA 303, and of the very favor of the Apostle. And "besides these things, if you desire anything else, it is to be presumed to come from the centennial property," as the Rota in Praenestina stated on March 23, 1819, page 3, column Martines. It may perhaps not be opportune to invoke here the principle of law, which does not allow for prescription in matters of faculty; indeed, since the presumption seems to favor the Bishop, based on the foregoing explanations, the spontaneous nature of the offering should have been clearly deduced by the Chapter. This presumption is strengthened by the royal decrees of the years 1740 and 1779, in which, as the canons reported, it was forbidden for Bishops to receive gifts. For, lest we say that the law, after being promulgated twice, immediately lacked effect, this offering, which the Bishop demanded and the Chapter presented, despite the prohibition, should not be considered as belonging to the category of facultatives, but rather should have derived its obligation from another

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title. After these things, it would be useless to engage in a discussion about the name by which the offering was called; for, as De Luca states in *De Eruditione*, discourse 91, notes 4 and 6, and discourse 104, note 6, the substance of the matter must be considered, rather than the bark and the words. Furthermore, whether it relates to this matter, or to other exceptions mentioned in the chapter books, it should be noted that we are dealing with private writings, which, if they prove to be contrary to the writer, cannot regularly be alleged in his favor, especially when contrary evidence is present, as the aforementioned Cardinal De Luca states in *De Iudiciis*, discourse 30, notes 12, 18, etc. Furthermore, even if such a payment originated from generosity, and is customarily made as an offering or gift, it cannot legitimately be argued that it is lawful for the Chapter to abandon its time-honored observance. Indeed, practice teaches that sometimes offerings can even take on the nature of an obligation, and this might perhaps be deduced from Pitonio, *Disputationes*, 51, note 8, where he speaks of gifts, which, according to custom, are usually given to the Pope by Cardinals in their chambers. But such offerings, provided they are not made at the time of visitation,

[*Latin ed. p. 304*]

In Nola, the prohibition is not obscurely indicated to be without just cause, as Benedict XIV demonstrates in *De Syn. dioec.*, book 5, chapter 6, paragraphs 4 and 5. Finally, the Bishop endeavors to mitigate the objections raised by the Chapter in the following manner: he argues that the acceptance of this offering could not have existed within the Chapter, nor was it recorded in the books of the episcopal administrator, because the Chapter itself deposited this offering in the hands of the Bishop when, on the last day of the year, it granted him the customary gratuity. Furthermore, if this offering was presented a few years after the Synod, specifically from the year 1819 to the year 1889, it must be said that it was not received as a coerced payment, and therefore it is not included in the synodal prohibition. He also noted that this offering was not given during a vacancy in the diocesan see, because the offering concerned the Bishop and his household. Regarding the poor, the Bishop cited the poverty of his episcopal table. Concerning the offerings of the parish priests, the Bishop stated that, for the present, it was sufficient to demand an oath, since there were lacking the serious documents that are present in this matter; nevertheless, he was prepared to request the opinion of the Sacred Congregation, even on this matter, when the present question with the Chapter had been resolved. With these considerations in mind, the proposal was to resolve the doubt: "Whether the annual payment from the Chapter of the Cathedral of Nola is due to the Bishop in this case."

RESOLUTION. The Sacred Congregation, having considered the matter

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on April 9, 1892, decided to respond: "No."

[*Latin ed. p. 305*]

305. OLUSINA and PIENTINA, having been designated as representatives of the Seminary, on July 23, 1892, through summary petitions. A SUMMARY OF THE FACTS. The Bishops of Clusina and Pienza, in a communication transmitted to the Sacred Congregation of the Council [S. C. C.] on January 22 of the current year, concerning the status of each of the churches entrusted to them, and as detailed in Chapter IX, regarding requests, stated the following: "The Council of Trent established that, for the proper administration of the Seminary's assets, a Council of four members of the Cathedral clergy should be formed, partly by the appointment of the Bishop, and partly by the election of the Chapter: my predecessors were accustomed to designate four representatives, namely, two from the Cathedral Chapter of Pienza, and two from the Chapter of the church of Clusina. "I ask whether I am permitted to follow this practice." When asked to provide clarification, the same Bishop further explained that the practice of electing two Canons of this Cathedral and two from the Cathedral of Clusina to serve as representatives of the Pienza Seminary has existed since the Seminary's founding, which dates back centuries. This practice continues to be valid, because the Seminary was established for two dioceses; therefore, it seemed reasonable that the Canons of the Clusina diocese should also participate in the administration of this institution, since both dioceses bear the burden of expenses, which are met through the revenues of convents suppressed in both dioceses. Therefore, it would now be difficult to comply with the prescription of Trent; for if the representatives were to be chosen only from among the Pienza chapter members, it would be impossible to include two members of the clergy from the city, nor could the college of parish priests, outside the city, provide assistance in the face of this deficiency. A SYNOPTIC DISCUSSION. Furthermore, a clear law was established by the Fathers of Trent concerning the representatives of seminaries in chapter 18, session 23, concerning reform: "And also, for the establishment of the college's fabric, and for paying the salaries of teachers and ministers, and for providing sustenance..." Tom. XXV, page CCXCIII, 20.

[*Latin ed. p. 306*]

306 In Chiusi e Pienza, a juventute, et ad alios expensas, certae reditus necessaria sunt... Iidem Episcopi, cum consilio duorum de capitulo, quorum alter ab Episcopo, alter ab ipso capitulo eligatur, itemque duorum de clero civitatis, quorum quidem alterius electio similiter ad Episcopum, alterius vero ad clerum pertineat... » Ex qua lege plane datur intelligi, ius illud quod capitulo et clero tribuitur ad suos deputatos eligendos non aliter servatum et tutum esse, quam illud quo Episcopus in suis pariter eligendis

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deputatis perfruitur. Et si finis legis intimius inspiciatur, non tantum honor, sed et onus etiam huiusmodi ius existimari deberet singulis electoribus indictum ad rectam Seminarii administrationem ordinatum, et ita vel a clero vel a capitulo inde, pendens, ut nec si vellet sese ab illo alteruter posset exsolvere, nisi ad electionem quoties casus contigerit de veniendo. Non levis proinde exurgit difficultas contra praxim ab Episcopo superius allatam. Haec siquidem non solum invecta esset contra decreta Tridentina, quae quamcumque contrariam consuetudinem respuunt et irritant, Constit. S. M. Pii IV *In Principis Apostolorum*, sed insuper irrationabilis videtur, ex eo quod inconveniens apparet, ut Episcopus omnes eligat deputatos, quos ipse deinde in administratione Seminarii consulere tenetur. Attamen rogati sunt Emi Iudices peculiaria casus adiuncta perpendere, quae ferunt, ut unicum habeatur seminarium pro utraque Dioecesi, quamvis ex Tridentina lege singulae cathedrales etiam unitae aeque principaliter suum habere debeant seminarium ; utque Pientinae civitatis, ubi nunc est praefatum seminarium, deficiat clerus, dum et altera cathedralis ecclesia in seminarii administratione interesse ceteroquin habeat. Quomodo haec cum Tridentino decreto cap. 18 sess. 23. componi valeant, vel permitti aut tolerari remissum fuit statuere Emis Patribus. Quibus animadversis, quaesitum est quid esset precibus respondendum. RESOLUTIO. Sacra C. Concilii re visa sub die 23 Iulii 1892 censuit respondere: Attentis peculiaribus circumstantiis, iisque perdurantibus, duo deputati eligantur ab Episcopo et duo alii a respectivis capitulis Clusino et Pientino.

[*Latin ed. p. 307*]

307 FROM 3. CONGREGATION OF BISHOPS AND REGULAR CANONS OF COLOGNE. PROPOSAL CONCERNING NOVICES OR THOSE WHO HAVE TAKEN VOWS OF SIMPLICITY. August 19, 1892. The Archbishop of Cologne, and other Bishops of Borussia, assembled in the city of Fulda, near the remains of St. Boniface, to deliberate on matters that may benefit each Diocese, presented to the Sacred Congregation of Bishops and Regular Canons the difficulties and inconveniences they experience due to the practice of religious men, who, after being raised to the sacred orders, having properly abandoned the religious life, return to their ancestral homes, and claim to be counted among the clergy of their respective Dioceses. The inconveniences, about which the Bishops complain, consist in the fact that these religious men, having left their Institute and returned to their Diocese, are often a burden to their own Bishops, because, while on the one hand they are obliged to admit them into their clergy, on the other hand they cannot make use of them, because they are often not suitable, either for exercising the sacred ministry, or for teaching in Gymnasiums, since they are usually lacking the qualifications and titles required by civil law, and they have no means of obtaining honest sustenance for themselves. The Orators believe that there are means of

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addressing these inconveniences, and they propose them in three distinct articles, which read as follows: 1. That it be forbidden by law to both Religious Orders and other religious Institutes to admit their members to the sacred orders before they have either made their profession, or taken simple but perpetual vows, or have otherwise been permanently attached to the Religious Order or Institute. SUMMARY OF THE MATTER.

[*Latin ed. p. 308*]

308 COLONIEN. 2. Ut, ita religiones propriamente dictae, quam etiam instituta religiosa quaecumque, omnium alumnorum sustentationem praestare teneantur, qui post ingressum in religionem vel institutum ad sacros ordines promoti sunt et postea egressi sunt, usque dum episcopus aliquis eosdem dioecesi suae incardinaverit. 3. Ut ii quoque, qui vota simplicia quidem, sed perpetua emittunt, aequè ac professi votorum solemnium a iurisdictione episcoporum perpetuo subtrahantur. Disceptatio Synoptica. Consultor, cui pro voto res commissa fuit, antequam disceptationem super singulis articulis instituet, observat incommoda, de quibus episcopi loquuntur, ordines regulares haud respicere, in quibus vota solemnia emittuntur. Huiusmodi enim ordinibus, primum a S. Pio V, deinde a fel. mem. Pii IX, tertio tandem a SSmo Domino Nostro Leone XIII provisum fuisse asserit. Ac praeprimis a S. Pio V consultum fuisse ait, per constitutionem Romanus Pontifex, qua cavetur « ne cuiuscumque ordinis religiosi clerici sive saeculares more religiosorum viventes in communi, non professi, ad sacros ordines promoveantur, nisi observata forma decreti Tridentini, sess. 2, cap. 2, de Reform., hoc est nisi habuerint ordinationis titulum a titulo paupertatis, quam nondum professi sunt, vel a titulo mensae communis, ad quam nondum ius perpetuum habent diversum ». Consultum fuisse, secundo loco, ait, a fel. rec. Pii IX, primum anno 1857 per decretum Neminem, latet, et deinde anno 1858, tum cum proposito dubio: An professi votorum simplicium, ante emissam professionem, ad sacros ordines promoveri possent? Authenticis declarationibus, art. VII, respondit: huiusmodi professos ad sacros ordines promoveri non posse. Ex quo responso, erui inquit, quod ius a S. Pio V stabilitum pro novitiis ordinum regularium nondum professis, extensum fuit sub Pio IX ad professos votorum simplicium eorumdem ordinum.

[*Latin ed. p. 309*]

COLONIEN. 309. Whereas, after the aforementioned regulations were issued, Pope Pius IX, in order to open the way for serious inconveniences, granted, through indulgenced dispensations, that, for just and urgent reasons, especially due to military conscription, those who had made simple vows might be promoted to the higher orders before making their solemn profession; the Consultor observed that these inconveniences had recently been addressed by Our Lord Pope Leo XIII, who established that, in place of

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the dispensations that had previously been granted by the blessed memory of Pope Pius IX, those who had made simple vows, for just reasons, could simply anticipate their solemn profession, even if the three-year period of their novitiate had not yet been completed. From the aforementioned regulations, it becomes clear with the light of day the inconveniences about which the Bishops have expressed concern, regarding the religious orders in which solemn vows are made, except for the Society of Jesus, which has disappeared; the Consultor believes that there is no need for new legislation in this regard. Having considered and analyzed these matters individually, the Consultor proceeds to examine the individual articles submitted by the Bishops for their approval. And beginning with the first article, as mentioned above, the Consultor believes that it can be approved, provided that, after the words: "to raise them to the sacred orders," the following clause is added: "under the title of poverty, or common table." With this clause added, according to the Consultor's opinion, the article is well-formulated; but he adds that, from the general observations mentioned above, it is evident that sufficient provision has already been made by the law already in force, and therefore there is no need to appeal to a new law. On the contrary, he does not admit, indeed, he completely rejects, as intrinsically bad and most pernicious, the remedy mentioned in the second article, according to which the regular orders would be obligated to provide sustenance to those religious who, after receiving the sacred orders, had left their religious order, until such time as a Bishop incardinated them in his diocese. Since he observes that these religious, being secure in their sustenance, would neither seek out the Bishop to whom they would be subject, nor would they provide useful service to the diocese, but rather would reject any laborious office offered to them, preferring a pleasant idleness to troublesome cares, vigils, and fatigue.

[*Latin ed. p. 310*]

310. CONCERNING the investigations, and because they prefer to indulge their own inclinations, rather than submit to the obedience of any Bishop. This causes grave detriment to the Religious themselves, and dishonor to the Holy Mother Church. Therefore, in place of the aforementioned second article, the Consultor believes that an effective remedy for the evils and inconveniences of which the Bishops speak can be provided, by extending to Religious Institutes of simple vows the same norms and regulations that are established for Regular Institutes of solemn vows. Regarding dispensations from vows, he proposes that no dispensation from vows be granted to Religious who have been promoted to the sacred orders by the title of *mensa communis*, unless they first present a testimonial from a Bishop, who is willing, under certain conditions, to receive them into his clergy, or they present some document from which it appears that they have established a patrimonial title for their honest support. If, how-

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ever, it should sometimes happen that a dispensation must be granted without either of these conditions being met, he suggests that the dispensation be accompanied by a prohibition from exercising the sacred orders, until they have procured for themselves some means of honest support. Furthermore, concerning those who are to be admitted [to secular life], if these are deprived of both means of support, and nevertheless a dismissal is to be granted, the Consultor believes that the Holy Congregation is justified in exercising the right of contradictory examination, and in judging whether a pension should be imposed or not. If, in the first place, it justly and equitably determines the amount and duration of the pension. If, in the second place, it adds to the decree of dismissal a suspension from the exercise of the sacred orders, at least until they are received into the clergy by some Bishop, or until they have established a patrimonial title for themselves. Unless, indeed, the fault for which they were dismissed is so grave that it requires a perpetual suspension. Finally, with regard to the third article, that those who, although they make simple vows, emit perpetual vows, should, just as those who have made solemn vows, be permanently excluded from the jurisdiction of the Bishops; the Consultor believes that the aforementioned article is to be understood in this sense, namely, that secularized or expelled Religious from Regular Institutes are not subject to Bishops.

[*Latin ed. p. 311*]

COLONIAL. 311 of Orense, and therefore, they are not referred to them nor imposed upon them with a dispensation from leaving, or for any other reason by which members of simple vows are dismissed from the Institutes. Nevertheless, it does not consider this article to be necessary, if the observations mentioned above are adopted. For then, sufficient provision would be made, and neither those who leave nor those who are dismissed would be a burden to the Bishops or to the ecclesiastical status of the diocese. However, whatever the resolution may be, it is considered that purely diocesan Institutes should be excepted; since the priests ordained in them belong to the Bishop, just as do secular clergy. Finally, in the last place, it is noted that, concerning *media* [meaning ”means” or ”resources”], about which mention is made in the preceding articles, these should not be extended to the Fathers of the Society of Jesus, since these have special privileges, by virtue of which they can dismiss members in their Institute to the sacred orders, without being obliged to provide for them, even if they do not have other means of honest sustenance, as is demonstrated by La Croix and P. Zaccaria, *tr. de Sacram. Ordinis*, at n. 2196, etc. After the observations presented by the Consultor, and after deliberation by the highest authorities, the following questions were proposed:

I. Whether, both for Religious Orders and for other religious Institutes, it is prescribed by law that they should not cause their members to be pro-

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moted to the sacred Orders before they have either made their profession, or have emitted simple, but perpetual, vows, or have in some other way been permanently incorporated into the Religious Order or Institute?

II. Whether, both for Religious Orders properly so called, and for all religious Institutes, they are obliged to provide for the support of all those members who, after entering the Religious Order or Institute, are promoted to the sacred Orders and afterwards leave, until a Bishop has incardinated them in his own diocese?

III. Whether those also who emit simple, but perpetual, vows are equally exempt from the jurisdiction of the Bishops, as are those who make solemn vows?

[*Latin ed. p. 312*]

312. COLONIAL RESOLUTION. The Sacred Congregation of Bishops and Regulars, after deliberation, at its plenary meeting on August 19, 1892, decided to respond as follows: In accordance with the proposal of Cardinal Sepiacci, with the observations of the Most Reverend Prefect. However, considering the necessity of the matter, the Sacred Congregation of Bishops and Regulars deemed it opportune to issue the following decree: Since, as from singular divine beneficence, many good things arise from Institutes of simple vows, so also some inconveniences arise from the easy departure of students from such societies and, consequently, from the legal return to the diocese of origin. These, however, become more serious due to the lack of temporal goods, with which the Church is now burdened, so that Bishops are often unable to provide for them so that they may live a virtuous life. Considering these and other similar matters, some Most Reverend prelates, for the sake of the decorum of the ecclesiastical order and the edification of the faithful, have, after fervent prayers, requested the Holy See to provide some remedy. Therefore, when the entire matter was presented to this Sacred Congregation of Bishops and Regulars, which is entrusted with affairs and consultations, the Most Reverend Fathers, in a plenary meeting held in the Vatican buildings on August 29, 1892, after mature examination and discussion, and having considered the entire matter, deemed it appropriate to issue suitable provisions to be observed everywhere in perpetuity. Which, when presented to His Holiness, who, in an audience on September 23 of this year, 1892, deigned to approve and confirm them with paternal benevolence, the following are established and decreed by the present decree with apostolic authority. I. Provided that the Constitution of St. Pius V of October 14, 1568, beginning "Romanus Pontifex," and the declaration of the same Most Holy Pope Pius IX, issued on June 12, 1858, in which Superiors of Regular Orders are prohibited from granting dismissal letters to novices or those who have made simple vows of three years, for the purpose of being able to be promoted to the Holy Orders, the same provisions are extended also to Institutes of simple vows, so that the Superiors of these

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Institutes cannot...

[*Latin ed. p. 313*]

COLONIAL. 313. Henceforth, letters of dismissal shall be granted for the Religious Orders, or in any way to promote students to the sacred Orders under the title of "Mensa communis" or "Mission," unless only to those students who have already emitted simple, but perpetual, vows, and have been firmly incorporated into their own Institute; or who have remained for at least three years in simple, temporary vows, with regard to those Institutes which postpone perpetual profession beyond three years. With this purpose, all indulgences and privileges previously obtained from the Holy See are revoked, as well as any contrary provisions contained in the respective Constitutions, even if such Constitutions have been approved by the Apostolic See. II. It must be known that, in general, no dispensation will be granted henceforth, so that a student of a Congregation of solemn vows may be promoted to a higher Order, unless he has first emitted solemn vows, or has persevered for the full three years in simple vows, if the student is attached to an Institute of simple vows. However, if a legitimate reason arises why someone should receive the sacred Orders before the three years have elapsed, a dispensation may be requested from the Apostolic See, so that the cleric may pronounce solemn vows, even if he has not completed three years; with regard to Institutes of simple vows, so that he may emit perpetual simple vows, even if the time prescribed by the Constitutions of the respective Institute for the perpetual profession of simple vows has not been completed. III. The provisions contained in the decree of the Sacred Congregation, issued by order of His Holiness Urban VIII on September 21, 1624, beginning with the words "Sacra Congregatio," and in the decree of the same Sacred Congregation, issued by order of His Holiness Innocent XII on July 24, 1694, beginning with the words "Instantibus," and in other general decrees, which regulate the method to be observed by Superiors of Regular Orders in dismissing their own students, remain in full force, but are also to be observed by the Superiors of Institutes of simple vows, whenever it is a question of dismissing a student who has emitted simple vows, whether perpetual or temporary, and who has been admitted to the sacred Orders: so that they themselves may also dismiss them, as is now stated, unless for a grave, external, and public fault, and unless the person is also incorrigible. In order that someone may truly be considered incorrigible, the Superiors must, at distinct times, give three admonitions and corrections; if these produce no result,

[*Latin ed. p. 314*]

314. CONCERNING DISCIPLINARY PROCEEDINGS. Superiors must conduct a formal inquiry against the delinquent, presenting the charges to the accused, and granting them a reasonable time to present their defenses,

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either personally or through another member of the same religious Institute; if the accused fails to present their own defenses, the Superior, or the Tribunal, must, as stated above, appoint a defender, a student of the respective Institute, ex officio. After this, the Superior, with their Council, may pronounce a sentence of expulsion or dismissal, which, however, will have no effect if the condemned party appeals the sentence to the Sacred Congregations, until the aforementioned Sacred Congregations have rendered a final judgment. However, whenever, for serious reasons, the aforementioned procedure cannot be followed, recourse must be taken to this Sacred Congregation in order to obtain a dispensation from the prescribed formalities, and the possibility of proceeding in a summary manner, according to the practices currently in force within this Sacred Congregation. IV. Students who have taken solemn vows, or simple perpetual vows, or temporal vows in the Sacred Orders, and who have been expelled or dismissed, shall remain perpetually suspended, until they receive further guidance from the Holy See; and furthermore, they must find a benevolent Bishop willing to receive them, and provide for themselves from ecclesiastical resources. V. Those who have been admitted to the Sacred Orders and are bound by simple vows, whether perpetual or temporal, who have spontaneously requested and obtained a dispensation from the Apostolic See, or who have otherwise been dispensed from simple vows, whether perpetual or temporal, by Apostolic privilege, must not leave the enclosure until they have found a benevolent Bishop willing to receive them, and have provided for themselves from ecclesiastical resources; otherwise, they shall remain suspended from the exercise of the orders they have undertaken. This also applies to students who have taken temporal simple vows, and who have already been released from any bond of profession, due to the passage of time since the vows were pronounced by them. VI. Those who have professed, whether solemn vows or simple vows, shall not be admitted from the local Ordinaries to the Sacred Orders, unless, in addition to what is established by law, they present testimonial letters, demonstrating that they have devoted at least one year to the study of sacred theology, if it concerns the subdiaconate; at least two years, if it concerns the diaconate; and at least three years, if it concerns the presbyterate, with the regular curriculum of other studies being presupposed.

[*Latin ed. p. 315*]

COLONIAL. 315. By order of the Most Holy See, this Sacred Congregation has decreed and determined the following, notwithstanding any contrary provisions, even those of special and individual significance. Given in Rome, from the Sacred Congregation of Bishops and Regular Canons, on the 4th of November, 1892. I. CARD. VERGA, Prefect. M. ARCH. CAESARIEN, Secretary. FROM THE SACRED CONGREGATION OF INDULGENCES OF DUBLIN. Concerning the Invocation of the Most Holy Name

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of Jesus for obtaining a Plenary Indulgence at the hour of death. William, Archbishop of Dublin and Primate of Ireland, earnestly requests the following clarification: Recently, a controversy has arisen among our people concerning a matter that greatly disturbs the minds of those who minister to the dying. This concerns the Blessing given at the hour of death, together with a Plenary Indulgence, granted by His Holiness Benedict XIV in the Constitution dated April 5, 1747, which begins with the words "Pia Mater." The question is whether, in mission territories, it is an essential condition for obtaining this Indulgence that the sick person, as long as he is of sound mind, invoke the name of Jesus, if possible with his mouth, or, if not, with his heart. Some maintain that such an invocation, whether spoken or mental, is an essential condition for obtaining the aforementioned Indulgence, depending on the state of the dying person; and they claim that the opinion of the Sacred Congregation of Indulgences, given on September 20, 1775 (Prinziv. n. 357, ad 7), supports this view. Others, however, deny that the aforementioned invocation is a condition in mission territories without which the aforementioned Indulgence cannot be obtained, noting that the faculty to grant it was conceded by His Holiness Clement XIV on April 5, 1772, to the sacred pastors in mission territories, or in any territories that may exist in the future. The Secretary of the Sacred Congregation for the Propagation of the Faith at that time reported the content of this concession, and the very words of the concession are as follows:

[*Latin ed. p. 316*]

316 From the SACRED CONGREGATION FOR INDULGENCES: The matter is found on the page concerning the faculties for Bishops in mission territories established by the Most Holy See for the Propagation of the Faith, granted in the present year. Indeed, with these words of the Pontiff before our eyes, the proponents of the opinion denying [the requirement] are made to understand: 1. That the Pontiff demands nothing other than that "the formula prescribed by the Most Holy Benedict XIV in the Constitution dated April 1747, which begins 'Pia Mater,' be observed." However, in such a formula, nowhere is a prescribed invocation of the Name of Jesus found; 2. That the response of the Sacred Congregation for Indulgences does indeed grant the faculty for those parts of the world where Bishops receive the power to impart this Benediction with a Plenary Indulgence through Briefs, in which the invocation of the Name of Jesus is prescribed; but the aforementioned proponents believe that this praised response is of no effect for mission territories, where the faculty to impart the aforementioned Benediction with a Plenary Indulgence is granted, not by means of Briefs in which the invocation of the Name of Jesus is prescribed, which Briefs are not given to Bishops in mission territories at all, but by means of the concession of Clement XIV; and that this concession is entirely silent concerning such an invocation. Thus, here and there, there is fierce dis-

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agreement, and priests who are concerned with the care of souls are torn between maintaining the method of acting that has been followed up to now, and observing a certain rule of action to be followed in the future. With these things explained, and perhaps a little more fully, so that the state of the question may be fully understood, the doubt, the declaration of which is earnestly sought from the oracle of the Holy See, can be conceived as follows: Whether it is required, as a *sine qua non* condition for obtaining the aforementioned Plenary Indulgence, that a sick person in a mission territory, as long as he is of sound mind, invoke the Name of Jesus – with his mouth if he is able, but with his heart if not – in order that the faithful in mission territories, who are at the very end of life, may be able to receive the Benediction at the point of death and obtain a Plenary Indulgence, by means of the same, according to the concession of Benedict XIV, in the Constitution *Pia Mater* dated April 5, 1747. The Sacred Congregation for Indulgences and Sacred Relics, having maturely considered the aforementioned doubt, judged that it should be answered affirmatively; that is to say, the invocation, at least mental, of the Most Holy Name of Jesus is a *sine qua non* condition for all the faithful who, being at the point of death, wish to obtain a Plenary Indulgence, by means of this Benediction, according to what this Sacred Congregation decreed in a Decree dated September 23, 1775.

[*Latin ed. p. 317*]

FROM THE SACRED CONGREGATION FOR INDULGENCES 317. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on the 22nd of September, 1892. FR. ALOISIUS CARD. SEPIACCI, Prefect. * S. f. ALEXANDER, Archbishop of Nicopolis, Secretary. REGARDING CERTAIN QUESTIONS CONCERNING THE STATIONS OF THE WAY OF THE CROSS. Father Raphael of Aureliaco, General Procurator of the Order of Friars Minor of Saint Francis, humbly prostrates himself before the Holy See and proposes the following questions concerning the stations of the Way of the Cross to be resolved:

1. Can Superiors of Convents, Hospices, etc., of the Order of Friars Minor, as Guardians, Presidents, Prefects of Missions, etc., delegate Religious Priests of the same Order, who are not, however, subject to them, to erect the stations of the Way of the Cross?

2. Since, according to the decision of the Sacred Congregation for Indulgences, "anyone can privately place the tablets, after they have been legitimately blessed by a priest lawfully delegated, without ceremonies and at another time" (Decree Auth. n. 311), is it necessary that the priest lawfully deputed, after having performed the blessing of the tablets and the preparation in the place where the stations are to be erected, remain there until the same stations have been affixed, so that he may not return to his house before such affixation?

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3. Does the Indulgence of the Way of the Cross cease, if the person who obtained it for his private oratory transfers his residence, or changes the oratory within the same house, so that in order to retain the same privilege, a new decree of concession is required? And, to the contrary:

4. Is the erection of a new Way of the Cross necessarily required in order to gain the indulgences, especially if the oratory and the Way of the Cross are changed near the old oratory, for example, if it is constructed in a room adjacent to the former oratory, but entirely separate, or in another part of the same house, which, however, the same person uses as his residence? And, to the contrary:

5. Can a priest lawfully deputed, after having already erected the Way of the Cross in the former oratory, also perform a second and third erection (if necessary) in the aforementioned changes or transfers, without a new deputation or authorization?

6. Regarding the establishment of the stations of the Way of the Cross in a domestic oratory, whether this is done with the privilege of celebrating Mass or not,

[*Latin ed. p. 318*]

3i8 From the Sacred Congregation for Indulgences: It is required that, in writings, and this pertains to validity, the consent of a) the Ordinary, b) the Parish Priest, be obtained. 7. If the consent of both the Ordinary and the Parish Priest, whether expressed in writing or at least orally, is required in the aforementioned doubt, is it necessary to obtain a new written consent from them (and also from the superiors in writing) in the case of the relocation of the Stations of the Cross from one house to another, or from one cell to another within the same house? 8. In an Indult granting permission to erect the Stations of the Cross in a domestic chapel, it is often stated: "Indulgences can be gained by the owner of the chapel and his relatives, affines, and cohabitants." The question arises: If the owner of the chapel, who holds the Indult, dies, can the others mentioned above still gain Indulgences? 9. For the erection of the Stations of the Cross in places exempt from the jurisdiction of the Ordinary, such as in churches, chapels, and internal areas of convents, but not of Minor Orders, but of other exempt Orders, is the consent of the Ordinary and also of the Parish Priest required? 10. Is the erection of the Stations of the Cross to be considered valid, if the Parish Priest or the Superior of a church, monastery, hospital, or other place where the erection is made, gives consent beforehand, but not in writing, unless after the erection? 11. It sometimes happens that it is not entirely certain who is the Superior who must give consent for the erection of the Stations of the Cross in a particular church, monastery, hospice, hospital, etc. For it is not always and everywhere that a chaplain is appointed by the Ordinary, but rather one priest or another is sent by the Parish Priest or by the Superior of a religious community to one of the afore-

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mentioned places, to celebrate Mass there, especially for the inhabitants, such as the sisters, the sick, etc., and to perform other ecclesiastical duties. Therefore, the question arises: In such cases, is it sufficient for only the Parish Priest to give consent for the erection of the Stations of the Cross, or is the written consent of the local Superior or Superioress of the Brothers or Sisters also required? The Sacred Congregation for Indulgences and Sacred Relics responded to the proposed doubts as follows: To I: Negatively; that is, one cannot delegate authority except to those who are subordinate. To II: Negatively. To III: Negatively; provided that the place where the Stations of the Cross are erected is not determined in prayers or in a written document. To IV: Affirmatively; that is, a new erection is necessary.

[*Latin ed. p. 319*]

FROM THE SACRED CONGREGATION OF INDULGENCES, number 319, as is evident from several responses of this Sacred Congregation, and especially from the response dated January 30, 1839, in Langres.

To Question V. Negatively; that is, a prior delegation alone cannot effect a new erection.

To Question VI. Affirmatively concerning the consent of the Ordinary; negatively concerning the consent of the Parish Priest.

To Question VII. Affirmatively.

To Question VIII. Negatively.

To Question IX. Negatively.

To Question X. Negatively.

To Question XI. If it concerns the erection of a Way of the Cross in a church or public oratory, in addition to the consent of the Superior or Superioress of a religious house, monastery, conservatory, or hospital, the consent of the Parish Priest is also required, especially if it concerns a Way of the Cross to be erected in a private chapel, or a suitable place within the confines of a monastery, which is entirely exempt from the jurisdiction of the Parish Priest.

Given in Rome, from the Secretariat of the same Sacred Congregation, on September 26, 1892.

FR. ALOISIUS CARD. SEPIACCI, Prefect. * S. f

ALEX. ARCHIEP. NICOPOLIT, Secretary.

FROM THE SOCIETY OF JESUS. Concerning the imposition of the scapular, and concerning a special Indult regarding the obligation of inscribing the faithful in the catalog of certain confraternities.

The present General Procurator of the Society of Jesus presented the following questions concerning the scapular to the Sacred Congregation for Indulgences and Sacred Relics.

1. Several priests who possess the faculty to bless and impose scapulars,

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impose them only on one shoulder and not around the neck of the faithful. This method of imposition is especially used with women and nuns, for whom it is difficult to impose the scapular around the neck due to the covering of the head. And it is entirely impossible for women and nuns, especially when a large crowd of people is present in the churches, to remove the covering of their heads.

2. The Fathers of the Society of Jesus in the Netherlands, on November 20, 1862, through the mediation of Pope Pius IX, via the Sacred Congregation of the Propagation of the Faith, and the Fathers of the same Society in Belgium, on September 26, 1877, through the Sacred Congregation of Indulgences, obtained the privilege of blessing and imposing five scapulars: of the Most Holy Trinity, of the Blessed Virgin of Mount Carmel, of the Seven Sorrows of the Blessed Virgin, of the Immaculate Conception of the Blessed Virgin, and of the Precious Blood, and of receiving both men and women into the aforementioned confraternities with the communication of a privi-

[*Latin ed. p. 320*]

From the Sacred Congregation for Indulgences and Sacred Relics, concerning the legations and indulgences granted to certain confraternities by the Holy See, it is stated that, even if these confraternities are established in churches, or if the names of the recipients are not entered in a catalog, or if the scapulars, which are usually blessed from the altar or ambo, are not placed around the neck by the one bestowing the blessing, but are instead placed in the hands of the faithful themselves, this does not invalidate the granting of these indulgences.

Indeed, by two decrees dated April 27, 1887, it is expressly and specifically prohibited that those to whom "an indulgence, whatever its name or form, has been granted by the Apostolic See," bless and bestow the Scapular of the Blessed Virgin of Mount Carmel together with other items. Furthermore, it is stipulated that, after a period of ten years from April 27, 1887, this scapular should not be blessed and bestowed together with other items. By another decree of the same date, the Gregorian Indulgence, or the exemption from the obligation of entering the names of the faithful in the catalog of the Confraternity of the Blessed Virgin of Mount Carmel, is revoked.

However, some, because of the fact that the aforementioned decrees were issued by the Sacred Congregation on the same day, have raised the question of whether the Gregorian Indulgence still remains in effect for the Fathers of the Society of Jesus. Others, on the contrary, maintain that it does remain in effect, because the decree revoking the Gregorian Indulgence does not apply to special indulgences concerning the exemption from the obligation of entering names in the catalog, which have been granted by the Holy See, whatever their name or form.

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Therefore, in order to proceed with certainty in all these matters, the following questions are proposed for resolution:

I. Whether the imposition of the scapular, if placed on only one shoulder and not around the neck, is valid.

II. Whether the decree revoking the Gregorian Indulgence equally obliges the aforementioned Fathers of the Society of Jesus, as did the first decree, which revoked the simultaneous blessing of the Carmelite scapular?

The Sacred Congregation for Indulgences and Sacred Relics, after mature deliberation and having heard the opinion of one of the Consultors, has responded to the questions raised.

To I: Affirmative.

To II: Negative. However, the Fathers of the Society of Jesus are reminded not to neglect to enter the names of the recipients in the register of a nearby sodality or religious monastery, so that they may not be deprived of prayers for the dead, according to the response given in a document from Versailles dated September 17, 1845.

Given at Rome, from the Secretariat of the aforementioned Sacred Congregation, on September 26, 1892.

FR. ALOISIUS CARD. SEPIACCI, Prefect.

* S. f.

ALEXANDER, Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 321*]

321 LETTER from the Most Holy Pope Leo XIII to the Reverend Father Vicar General of Bologna, concerning the Archbishop being sent for that Archdiocese. Let the illustrious church and noble city of Bologna bear witness to this, that We, through Our singular providence and charity, have chosen him whom We have recently appointed from the Sacred Senate as Archbishop, and We declare this with due authority. We are indeed grieved to be separated from so excellent a man, distinguished by his deeds and the praises of his intellect and spirit, so that a worthy successor may occupy the See of Peter, where many, up to this time, have rendered memorable service through holiness, doctrine, and beneficial endeavors. To this plan, which We undertook with the help of God, it has been reported that all orders here have responded wonderfully; and this has been confirmed by letters, witnesses of grace and joy, which have been sent to Us in these days by the primary College of Canons, with you preceding, Venerable Brother, and by the urban clergy, on behalf of all. – But faith and piety towards the Apostolic authority, as these are evident from the same letters, give Us the firmest hope that he whom We have sent as a Pastor will be received with the unanimous will of all, and that he will be honored with the greatest reverence and followed with obedience. He will indeed come

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with a great spirit and be prepared to dedicate himself entirely to so large a flock, so that he may promote the true good of all and foster the best of institutions; but he will not be able to accomplish these things with abundant fruitfulness, unless, which is right and holy, the cooperation and endeavors of all are added. And all, the clergy in particular, whose zeal for doctrine and religion is rightly praised, will certainly be eager to contribute in their own way; and you, Venerable Brother, will continue to demonstrate the virtue and prudence that are rightly praised in the new Pastor, and to merit the best of things as you always do. – In order that these hopes and expectations may be fulfilled, We wish to invoke the Holy Mother of God, in whom the people of Bologna have found the greatest protection and honor, through the blessed piety of their ancestors. Now, having offered prayers for Our safety, and offering heartfelt prayers, We impart to you Our Apostolic blessing, and to all the clergy and to the entire people of the Diocese. Given at Rome, near St. Peter's, on the tenth day of December, in the fifteenth year of Our pontificate. LEO XIII, POPE. Acts, Volume XXV, section COXOIV, 21.

[*Latin ed. p. 322*]

FROM THE HOLY CONGREGATION OF THE COUNCIL OF LEGHORN. Regarding Marriage, dated January 23, 1892. Session 21, Chapter 1, Concerning Reforms. SUMMARY OF THE CASE. After a period of fourteen years from the beginning of the marriage, Maria Del Nero, of Leghorn, presented petitions to the Supreme Prince, requesting that a dispensation be granted to her from the marriage, which she had contracted at the age of 18 with Aceste Puccinelli, on October 4, 1874, in the church of Saint Catherine, and which she claimed had remained unconsummated. However, it was already well known that Maria had been resisted by her husband in fulfilling marital duties, and for this reason, after approximately one year from the beginning of their cohabitation, she returned to her parents' home, and requested the dissolution of the marriage from the civil authorities. But when Aceste came to her, and for a month they were again together in the same bed as husband and wife, the woman, after declaring to her mother that the marriage had finally been consummated, returned to her husband's home. Then, marital relations were resumed and continued until the year 1882; at which time, either because Maria still considered the marriage to be unconsummated, or because the husband's fortune was declining daily, she again returned to her mother, leaving Aceste, and subsequently obtained a decree of separation from the civil court. The Bishop of Leghorn, to whom the Holy Congregation had ordered, by mandate of the Apostolic See, to conduct the proceedings concerning both the alleged unconsummation of the marriage, and the reasons for the dispensation, as is customary, on June 16, 1890, duly appointed a delegated judge, an advocate for the marriage,

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a clerk, and a procurator. Soon after, in accordance with the procedures of the Benedictine Constitution and In-

[*Latin ed. p. 323*]

LIBURNEN. 323. The ecclesiastical tribunal, after hearing the testimonies of the spouses, and subsequently the depositions of the physicians and midwives, who had been selected by the judge to examine the body of Maria, proceeded with the case. A Synopsis of the Arguments. MARRIAGE SEEMS TO BE INCONSUMMATED. The advocate who seeks to demonstrate the inconsummability of the marriage, notes in his argument all those reasons and proofs which, according to the common doctrine of canonists and accepted jurisprudence, are required in such cases to establish moral certainty regarding the lack of consummation. And first, concerning the sworn confession of the spouses, he recalls that the woman, who had asserted in the petition presented to the Supreme Pontiff and in the civil trial, declared before the ecclesiastical tribunal, under oath, that the marriage had never been consummated. He adds that, after the first separation, in order to obtain the mother's consent for reconciliation, she said to him, "You have consummated the marriage," but she confessed that she had lied at that time, in order to overcome the mother's resistance, claiming that the marriage had been consummated. He notes that all the witnesses, as the advocate points out, affirmed that this woman's confession should be given full credence, without exception. Acestes, who, as the advocate notes, fell into misfortune and sought reconciliation with Maria, to whom still some possessions remain, did not hesitate to testify under oath: "In the first days, I abstained from consummating the marriage; subsequently, I attempted to fulfill this duty, but I doubt that I succeeded, due to the weakness of my body, and my own infirmity." But with regard to Maria's declaration concerning the consummation of the marriage, he reports that she answered the judge, who questioned her, that at that time she lied to Maria. He considers that all these things, having been stated by the man himself against himself, should be held in the highest regard. Furthermore, the confession of both spouses, corroborated by the unanimous testimony of witnesses from both sides, possesses the fullest force.

[*Latin ed. p. 324*]

324. LIBURNEN. He observed that the matter was confirmed, based on several acts of the proceedings. The seventh month of the woman's pregnancy, the witnesses induced by the husband, fully corroborated this, he noted. Indeed, these witnesses not only unanimously denied the truth of Acestes' affirmations, but also seemed to agree on the fact of the lack of consummation. Regarding the testimonies presented, Sophia Puccinelli, the fiancée's aunt, and her father, Orestes, and Olinthus Ferrini, when ques-

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tioned by the judge about how the witnesses of the marriage had learned of the lack of consummation, replied that John Vigoni knew it "from common report, that this lack of consummation was attributed to the husband's deficiency." Finally, the advocate Augustus Gasparri, a friend of the plaintiff and summoned by him, who testifies under oath, states: "I learned, after a few days from the beginning of the marriage, about this lack of consummation, from the priest Battaglia, to whom the husband Acestes had revealed the matter, as to a confidant." However, the advocate continues, if any doubt could still remain, it must be dispelled when considering the testimonies and reports of the midwives and expert physicians who examined Maria's body for judicial purposes. He observes that the physical examination was conducted so carefully and according to the rules, that nothing was omitted that is prescribed by the sacred canons in such cases. The midwives, he recounts, unanimously declared before the judge that Maria was perfectly formed. Furthermore, the advocate states that these conclusions of the midwives were wonderfully confirmed by expert physicians. He recalls that the full confirmation was added from the testimonies of both physicians, as they themselves stated separately in written reports. Therefore, the advocate concludes, there is no room for doubt that the lack of consummation of the marriage was established, and that nothing else is needed to prove the matter.

[*Latin ed. p. 325*]

LIBURNEN. 325 Having then presented his arguments to ascertain the causes for a dispensation, the advocate first adduces the husband's persistent intention not to consummate the marriage, or rather, his presumed impotence. Furthermore, since all the witnesses, in accordance with the patron, testify with one voice regarding Acestes' impotence, the events that have transpired over many years seem to offer no hope whatsoever that the husband will ever fulfill his marital duty. Indeed, "when impotence is presented as the reason and cause for a gracious dispensation, it does not require certain and conclusive proof. But it is sufficient that this impotence be so probable that the Supreme Pontiff can consider it true and be moved to grant the dispensation." Conscious, book 3, chapter 2, number 386. The opinion of Pignatelli, Consultation 148, number 14, volume 4. Cardinal De Luca, discourse 7, number 7, on marriage. The advocate then places the second cause for the dispensation in Mary's insuperable aversion towards her husband, which is abundantly proven by the testimonies of the witnesses. Finally, the third cause is requested due to the danger of incontinence, in which the woman, still of a young age, is most wretchedly situated. The spiritual benefit of the petitioner seeking the dispensation has always been held to be of great importance when granting the dispensation, as testified by Perez, on marriage, disputation 20, section 7, number 11, and as taught throughout by the Sacred Rota and by countless resolutions of this Holy

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Congregation.

OBSERVATIONS OF THE DEFENDER OF THE BOND. On the contrary, the advocate of the sacramental bond, referring to the prayers with which Mary sought a dispensation from the Supreme Pontiff regarding the valid marriage, believes that these words should be interpreted as indicating that the husband is impotent for the consummation of the marriage. Without investigating whether Mary concealed this with good or bad faith, he declares that this is contrary to the truth. He recalls that Acestes recounted to the judge that he had once submitted himself to a medical examination and was judged to be fit for the consummation of the marriage. And Mary herself testified in court, affirming that the lack of consummation was not due to any defect in her physical constitution.

[*Latin ed. p. 326*]

326 LIBURNEN. The husband, but through a lack of will, due to his timidity, or his foolishness. The true and similar defender seems to point out that Mary objects to the lack of will. For Acestes, without hesitation, when questioned by the judge about his marriage, answered: that mutual affection preceded the marriage, and that he had a free will. This is entirely confirmed by the woman herself, and by the Bishop of Leghorn, who had learned this from the same spouses. Therefore, the defender states, it is not only permissible to infer that Acestes did not abstain from conjugal relations for such a long period of time, but that a completed marriage can even be presumed, both in fact and in law; especially since it is without controversy that Mary was capable of intercourse, as can be read in the documents from Naples. August 2, 1845, § Quin. Furthermore, he continues, the Bishop of Leghorn reports: that shortly after the beginning of the marriage, Mary left her husband's house, because she was unable to consummate the marriage; and that shortly after, she was received into her father's house, where she requested to stay, saying that everything had been properly fulfilled, and she remained there for five or six years. This confession seems to incriminate the woman. To these things, he adds: that on November 19, 1875, the woman forcibly took the man into court, because the marriage had not yet been consummated, and that she had declared the dissolution of the marriage to a secular authority. Later, on May 15 of the following year, the same Mary, together with Acestes, went to the judge and reported that they were going to repeat their cohabitation, with a changed intention; and that this cohabitation brought peace and tranquility to both of them. However, he argues, there is no reason to believe the woman, who claims to have acted in this way, either out of love for her husband, or for other reasons, and therefore, when she asserted to her mother that the marriage had been consummated, she lied. The defender asks: what reason could there be for the same Mary, who for nineteen months had been burning with a desire to consummate the marriage, and

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had reported this to the judge, unless it was because...

[*Latin ed. p. 327*]

LIBURNEN. 327. After the restoration of conjugal cohabitation, having delayed the fulfillment of the vows for so many months, he affirmed to the same judge with certainty that this cohabitation had brought tranquility, which would endure under more favorable auspices? Furthermore, if credence should not be given to one who lies, it would certainly seem that the testimony of Mary should not be believed, since she declares that she lied, given the most common saying: "Once a liar, always a liar." Moreover, Orestes Puccinelli, seventy years of age, uncle of Acestes, swore before the judge that he knew, a few days later, that the marriage had been consummated. These are the arguments upon which the action against Aversa is based, which are briefly considered. And first, concerning the confessions of the spouses, it is noted that the husband spoke in court without any affirmation, but with doubt. He said: "I tried to consummate the marriage, but I doubt the outcome." However, outside of court, Acestes told Olintho Ferini, who was inquiring about the matter, that it was doubtful whether he had fulfilled his duty; the defender of the marriage denies the truthfulness of this, not only because this confession is remarkably at odds with what has been stated previously, but also because Mary incites to the dissolution of the marital bond. Therefore, as Sánchez points out in his work *De Matrimonio*, book 2, disputation 45, paragraph 33: "A confession, even if it is in favor of the confessor, proves nothing." Even more so, since Mary did not immediately confess to the Bishop, nor after one or two months, but proclaimed Acestes to be inept or reluctant in his marital duties, but remained silent for eight years. Therefore, against her, all laws cry out, as is warned in chapter 1 of *De Frigiditate et Maleficiis*. Finally, it is again mentioned that Mary confessed to Puccinelli at a time when there was no suspicion that the marriage had been consummated; and then, after four months of cohabitation with Acestes, both spouses affirmed before a lay magistrate that this cohabitation had restored tranquility to both, which would be prolonged under more favorable auspices. With these things established, the disposition of the law is most clear.

[*Latin ed. p. 328*]

328. LIBURNEN argues that nothing prevents Mary from being heard when she asserts the lack of consummation of the marriage; he brings forward the law from book 173 of the Code, which states: "It is judged to be most unjust that anyone should clearly and openly protest something, and then, in the same case, deny it, and contradict their own testimony."

Regarding the testimony of the seventh witness, Liburnen believes it should be treated briefly. He states that, based on experience, witnesses of this kind, who are chosen by those with an interest in the outcome and

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are therefore predisposed, always swear according to what the instigator suggests, as has happened in the cases of the marriages in Bologna on May 11, 1890, and May 30, 1891, as well as in the marriages in Paris on December 20, 1890, in which two legions of witnesses, distinguished by their nobility and religion, were influenced in both cases by the Most Reverend Fathers.

Furthermore, the defender believes that nothing should be done regarding the examination performed on Mary by midwives; first, because the midwives did not submit the written report required by law after the examination; and second, because the midwives were content to examine only the genitals.

Indeed, Liburnen strives to demonstrate, based on the most accepted opinion of archbishops, that, in addition to the genitals, other parts of the woman's body must also be examined, citing the authority of Zacchias, *Quaestiones Medicae*, book 3, title 2, question 7, numbers 3 and following, and book 4, title 2, question 3, number 13.

Moreover, Liburnen states that such examinations, however accurate, can never provide absolute certainty, citing Sánchez, *De Matrimonio*, book 1, disputation 108, number 8: "For often the eyes and hands of the midwife are deceived; even more so because women use many deceptions with which they feign virginity." Therefore, it has happened that leading figures in the healing arts refuse to give a judgment on whether a woman's virginity is intact or corrupted, despite any arguments that may be less deceptive in such matters, as in the recent marriage case in Mechlin, where the doctor Dorff declared: "It is always impossible for a man to determine by examination whether a woman is no longer a virgin."

[*Latin ed. p. 329*]

BOOK 329. But, although the marriage was contracted but not consummated, nevertheless, according to the defender of the bond, there were no grounds for granting a dispensation. For Acestes and Mary, without any compulsion, were betrothed to each other in their hearts: they lived peacefully together in the same house for many years, and both slept in the same bed: Mary attributes only one fault to Acestes, namely, that he did not lie with her in the marital act. But Acestes, being penitent for this deed, is now ready to satisfy his wife, and, with a sworn oath, promises: "I am ready for the new union, and I believe that I would be able to fulfill my conjugal duties in a manner that is, I think, more praiseworthy." Nor did Mary's aversion towards Acestes provide grounds for a dispensation, since it derived from the lack of consummation of the marriage, and would disappear once the things that would confirm the validity of the marriage were established. However, since it is not certain that the man will in the future be fit to perform marital duties, a certain, rational, and just cause for a dispensation cannot be established in a matter that depends on a future and uncertain event. With these premises established, the doubt to be

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resolved is: Whether it is necessary to consult with the Most Holy Fathers concerning a dispensation for a marriage that is valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after discussing the matter on January 23, 1892, decided to respond: Affirmative.

[*Latin ed. p. 330*]

330. CALVEN. CONCERNING THE OBLIGATION OF ACCEPTING THE CARE OF SOULS. March 5, 1892. Session 24, chapter 81, Concerning Reform. SUMMARY OF THE CASE. In the month of August 1890, the Bishop of Calven and Teano informed the Sacred Congregation: that there were approximately eighty urban and rural parishes in the Diocese of Teano; that the number of priests was small, and that many of them were elderly and of weak health; and that, therefore, many parishes could not be provided with priests in charge, but not even with temporary vicars. In the Diocese of Calven, there were two priests, who, although not the best, the Bishop could assign to two parishes. However, these men refused, and were unwilling to abandon their own advantages. Having explained this, the Bishop asked whether he could compel the priests of Calven, using censures, to undertake the care of the parishes, either as temporary vicars or as permanent pastors, in this Diocese of Teano. He also asked whether he could compel religious priests to perform the same pastoral duties, who, while living outside their monasteries, were under a temporary license from their superiors, and who were little or nothing disposed to obey the orders of the Bishop. To these questions, on the 18th of the same month, the following response was given: "Let it be answered as in Parma, on January 17, 1886, regarding the second question." Regarding religious men, to the extent that they live outside the cloister with the temporary permission of their superiors, the matter should be addressed with those same superiors. In the aforementioned Diocese of Parma, the second question, proposed by the Bishop, was as follows: "Whether, under the same precept of obedience and with the same intended censures, the Bishop can compel priests who are idle and infirm to undertake the care of churches, at least until it is possible to provide pastors for them." This was answered: "Affirmatively, in a grave and urgent necessity, and for a time."

[*Latin ed. p. 331*]

CALVEN. 331 After these events, namely on March 23, 1891, with the parishes of St. Peter in the territory of Conchae and St. James in the place commonly called Le Vaglie vacant in the Diocese of Teano, the Bishop appointed priests from the Diocese of Calven, Joseph De Bernardo, from the Camillian Order, and Mathias Chiocchi, from the territory of Sparanisi, to serve as administrators of the aforementioned churches. He ordered them, under penalty of suspension, which would be incurred by the very act

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of refusing, to accept the assigned duty. However, both of these priests considered such an order to be excessively burdensome, and therefore, the priest De Bernardo first filed an appeal with the archiepiscopal court of Capua, and afterward, when the Most Reverend Metropolitan refused to hear the appeal, on April 21, 1891, he appealed to the Sacred Congregation, to which the priest Chiocchi had already appealed a few days prior. After hearing the Bishop, who immediately, out of due reverence for the Sacred Congregation, granted the two priests permission to perform the sacred rites again, it was deemed necessary to refer the matter to the Supreme Pontiff. And from the audience with the Most Holy Father on June 8 of the preceding year, a response was issued: The petitioners, De Bernardo and Chiocchi, should, in the meantime, obey the Bishop, and this should be notified to the same Bishop. The two priests, having been informed of this, declared, at least verbally, that they were willing to comply with the orders, albeit with certain conditions, as stated in letters sent to the Prelate. Thus, the priest De Bernardo stated: "Considering my personal circumstances, I cannot leave my home unless Your Eminence first consults about the expenses of the journey, the proper sustenance for myself and my family, and all the necessities for the Church that should be provided to me; but under the condition that no funds are allocated that would be detrimental to my weak health." The priest Chiocchi made a similar declaration, promising obedience. These last words refer to the terms under which the Bishop, at the end of the letters of appointment, had assigned compensation to the two administrators: "<with a suitable portion of the fruits to be given to you by the regional sub-administrator from the revenues of the aforementioned parish.> " The Prelate immediately sent this response to the Sacred Congregation, and at the same time, requested instructions as to what should be done. He received a reply on August 18: to the same Bishop, who...

[*Latin ed. p. 332*]

332. CALVEN. Let it be done prudently, so that the priests Bernard and Chiocchi may be led to obedience, and, as long as they resist, let a suitable term be assigned to them to present their rights before the Sacred Congregation, etc. Then, so that the aforementioned priests might remove the stain of disobedience from themselves, they wrote more to the Bishop, although they did not accept the assigned task. *Disputatio Synoptica. DEFENSE OF THE BISHOP.* And, above all, it must be remembered that Bishops, whom the Holy Spirit has placed to govern the Church of God, have a well-founded intention regarding the exercise of their power within their own Diocese, and therefore they can decree what they deem proper for the right governance of souls and the common good. However, it is most fitting that the presbyters should lead by example in carrying out their mandates, and therefore, if they are unwilling and resistant, they can be compelled to

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obedience, as Tradition teaches, by the Holy Office in Ascolana on July 11, 1767, § 4. Benedict XIV, *De Syn. dioec.*, book 13, chapter 1, number 3. This obligation, indeed, clearly arises from the solemn promise of obedience made by the priests to the Ordinary during the act of Holy Orders, which, according to the same Benedict XIV, as noted in the Reatine Residence on January 26, 1833, § Quod vero, is not to be considered a mere empty formula. Moreover, the obligation to obey the Bishop, especially when he has ordered it out of a true and urgent necessity for the care of souls, may arise not from a simple motive of charity, but from the very nature of the priestly office. For, as Saint Alphonsus teaches in *Theologia Moralis*, book 6, treatise 4, chapter 2, number 625, priests have been instituted by God to be concerned with the salvation of souls, and therefore it is their proper duty to provide assistance to the faithful, at least in times of great necessity of the people, in matters concerning their own salvation. It cannot be said that those who refuse to undertake the care of souls in such cases fully fulfill their obligation, if they assist souls in some other way, namely, by instructing, correcting, or praying, etc.; for, as an example...

[*Latin ed. p. 333*]

CALVEN. 333. "Let him who desires to follow the example of this same Saint, if a neighbor is in need of food, let him provide for him with food, and not with clothing." And so, as noted above in the cited Parma, the Sacred Congregation has adhered to this principle. Furthermore, the Bishop testifies to a grave necessity arising from which the faithful of Christ suffer great detriment, and the consequences become more serious, and the remedy more difficult. Moreover, it would seem futile to object that the priests Bernard and Chiocchi are assigned to the Calvensi Diocese, and therefore they cannot appeal to the Theanense. For, besides the fact that higher-order reasons might hold sway here, it could be maintained that they have promised obedience to the Bishop, so that they may serve both the Calvensi and the Theanense churches. Furthermore, it must be considered that in the case of two dioceses, the action is not accidental, but perpetually united, which, as the Cardinal De Luca states in *De Praeem.*, disp. 7, n. 6 and 16, concerning the Bishop, are treated as one, so that sometimes the benefits of both can be united and a single synod celebrated. - ibid. - "Moreover, even though, with a union established, the churches and dioceses are equally distinguished in every way, yet, with regard to the Bishop, both seem to be considered as one, therefore, it is not incongruous that the benefits of one diocese should be united with those of the other for some probable cause, as is fully demonstrated in the case of d. Marianen, and Aceten, before Rojas, decisions 373 and 423, and in the same case, before Corrado and Bichio, decisions 108 and 221, p. II, etc." And a little later: "However, it cannot be inferred from this that, if the Bishop wishes to convene and celebrate only one synod for both, it is permissible

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for the subjects not to obey, etc." If these matters, which appear to be more important, are justified by a just cause, the Bishop can do so; and it would not seem unreasonable to grant the Bishop the power to compel priests, due to a grave necessity, to move temporarily from one united diocese to the other. However, after the rescript of June 8, 1891, perhaps the proposed difficulty would entirely disappear, since the authority of the Supreme Prince, which is not limited by the boundaries of the diocese, has intervened in this matter.

[*Latin ed. p. 334*]

334. CALVEN. Finally, the Bishop dismisses the remaining objections raised by both priests concerning their health. As for the lack of sufficient income for a decent livelihood, only a few points can be noted, since the Bishop has stated only this: that the parish administrators are now obtaining their support from the civil administration, whereas formerly they received it from their own dioceses. To these, however, should be added the uncertain revenues, which the Sacred Rota's tribunal considered to be properly included in the calculation in the case of *Vincentina Congruae* on January 23, 1754, § *Sin coram Bussio*, and in the case of *Asculana Restaurationis Ecclesiae et domus parochialis* on June 22, 1789, § 4, before Paracciano. Furthermore, the Bishop observes that, to the extent that it is permissible for the Ordinary to pay the parish administrators what two priests demand in a benefice, it should be the case that widowed parishes should be assigned a titular pastor if the Bishop is unable or unwilling to pay according to the requests of the parish administrators. After briefly considering these matters, the esteemed Fathers were asked to resolve the following question: Should the priests Chiocchi and De Bernardo be compelled to accept the care of souls in this case? RESOLUTION. The Sacred Congregation, having knowledge of the matter on March 5, 1892, decided to respond: The papal rescript of June 8, 1891, should be put into effect. *EX INDE COLLIGES*. The two priests in the benefice are, for the time being, to obey the mandates of the Bishop. LIBTJRNEN. DISTRIBUTIONUM CAPITULARIUM. May 21, 1892. Session 22, chapter 8. Concerning the matter. On July 18, 1750, according to the records of Anthony Coccolini, by order of the Most Reverend Archbishop of Pisa. COMPENDIUM FACTI.

[*Latin ed. p. 335*]

LIBURNEN. 335. At that time, the Church of Liburnensis was under its jurisdiction. A convention was initiated in Liburnum between the Chapter of the Collegiate Church, later elevated to the status of a Cathedral, on the one hand, and the noble Confraternity of the Most Holy Sacrament and of Saint Julia, with the Religious of the Most Holy Trinity and the administrators of the Pia Domus, on the other. By virtue of this convention, the Chapter undertook a perpetual obligation to provide for the expenses

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of the vicars, parish priests, chaplains, and clerics who participated in the public procession organized by the members of the Confraternity on the third feria [week day] within the octave of Corpus Christi, in the region of the city commonly called "Quartiere di Venezia Nuova," with solemn pomp in the churches of the Brothers of the Most Holy Trinity and the Pia Domus, which they alternately celebrated each year; indeed, to celebrate the sacred function by one of its members. In compensation for this burden, the Confraternity, partly with its own funds (150 *pezze*), and partly received from the Religious of the Trinity (100 *pezze*), paid to the Chapter, within the very context of the convention, 250 *pezze*, that is, 1208.50 Italian *libelle*, which were to be held as the fund and endowment of this pious work; the income from which was to be used for the annual distribution to the clerics participating in the aforementioned procession. Furthermore, the Chapter was never to be dispensed from this procession at any time. Subsequently, in accordance with the agreed-upon convention, the procession was carried out without interruption until the year 1786; after which, it was suspended, and the funds previously allocated for distributions were, by order of the Bishop of Pisa, used for the celebration of Masses. Furthermore, in the year 1789, the Chapter, having not been invited, and in the year 1830, due to inclement weather, held the procession in the Cathedral Church. Then, from the year 1849 until the year 1853, due to the prohibition of public processions during those times, the aforementioned procession was also not celebrated by the Chapter; and the annual income intended for the distribution to the clerics, in accordance with the terms of the convention, was deposited in the treasury of the Chapter, by order of the Ordinary of Liburnensis. Meanwhile, the Religious of the Most Holy Trinity, having been expelled from the church of Saint Ferdinand due to subversive laws, of the same temple...

[*Latin ed. p. 336*]

336 LIBURNEN. The procession of the Blessed Sacrament, with due care and zeal by the rector from the secular clergy, without any intervention of the Chapter, began to be held three times during the octave of Corpus Christi, within the confines of the church of St. Ferdinand. And so it remained until the year 1854, when, with the restoration of the Trinitarian Fathers, the Chapter, at the urging of Father Joachim of the Heart of Mary, the administrator of the church of St. Ferdinand, decided on June 19th to allocate 64 bonds, yielding 1208.50, so that the procession might take place within the walls of the church of St. Ferdinand, noting that this was to be done spontaneously, without any obligation. However, due to worsening circumstances and the economic condition of the Chapter, the aforementioned Chapter decision was revoked on June 7, 1890, and the Chapter decreed: to allocate these revenues from the year 1890 in favor of the Cathedral. And indeed, half of these revenues were assigned for

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distributions to those who participated in the procession in the Cathedral on Sundays during the octave of Corpus Christi; the remainder was for the solemn exposition of the Blessed Sacrament, which is also held on that day in the Cathedral by the perpetual adoration society. Against this latest decision of the Chapter, Father Joachim of the Heart of Mary, the parish priest of St. Ferdinand, protested on August 25th of the same year; and in a consultative meeting held on February 22nd of the following year, the Confraternity of the Blessed Sacrament and of St. Julia also joined in the protest. Nevertheless, since the Chapter persisted in its own decision, the matter was brought before the Ordinary, who, after considering both sides, on March 16, 1891, issued a judgment entirely contrary to the Chapter. Feeling aggrieved by this judgment, the Chapter appealed to the Supreme Sacred Congregation within the proper time; however, as noted by the Bishop, it failed to provide the reasons for which it was initiating the appeal. In the meantime, at the urging of the Ordinary, prayers were offered to the Supreme Prince by the Confraternity of the Blessed Sacrament and of St. Julia, together with the parish priest of St. Ferdinand, for this purpose, that it might be determined how,

[*Latin ed. p. 337*]

LEGHORN. 337. While the sacred supplications are being impeded, the revenues of the aforementioned sum of "250 pezze" must be paid.

A concise discussion: The Patron who defends the rights of the Chapter of Leghorn, in the written allegation presented, states that it is easily understood from the very narration of the facts that the entire controversy rests on the agreement initiated on July 18, 1758, between the Chapter and the Confraternity of the Most Holy Sacrament and of Saint Julia, and therefore, above all, that no action whatsoever pertains to the Brothers of the Most Holy Trinity in this matter. For, he adds, the part that the aforementioned Brothers had in this agreement was only this: that, since through it a specific method was determined for the solemn procession to be carried out through the public streets of the region of Leghorn, commonly called "Quartiere di Venezia nuova," so that it should be carried out alternately, first in the church of Saint Ferdinand, then in the temple of the Pia Domus, the Brothers of the Trinity, as well as those who administer the aforementioned Pia Domus, undertook the obligation to grant the use of their own church and sacristy for the sacred ceremonies to be duly performed in that circumstance. Hence, he states, it was an obligation, not an action, that was requested of those Brothers. Furthermore, with regard to the sum of "100 pezze," which the Brothers of the Most Holy Trinity collected from the offerings of the faithful, to serve the solemn procession, he observes that it was not given to the Chapter, but to the Confraternity itself. From this, he concludes that, if any action was requested of the aforementioned Brothers, this would pertain to them against the Confraternity of the Most

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Holy Sacrament and of Saint Julia, and not against the Chapter, since it is a well-known saying that a matter carried out between others should neither benefit nor harm a third party. And since the entire business was conducted solely between the Chapter and the Confraternity, the advocate believes that it should be noted in this case what obligations were undertaken by each party in the agreement. He recalls that the Confraternity obligated itself to carry out the procession in a more solemn manner, as is fitting.

DEFENSE OF THE CHAPTER. Aeta, Vol. XXV, Part II, p. 604.

[*Latin ed. p. 338*]

338 LIBURNEN. that a door and a procession should be arranged, and that sufficient expenses should be incurred for the erection of two altars in the respective churches for the exposition of the Venerable [Relic]; the revenue from which should be used to provide for those participating in the procession. On the other hand, he notes that the Chapter had accepted the aforementioned sum for that specific purpose and had undertaken the obligation of participating, along with the vicars, chaplains, and clergy, in the aforementioned solemn procession, and of performing the sacred rites. Therefore, it can be concluded that: firstly, the aforementioned sum was expressly, solely, and exclusively intended for this purpose, according to the will of the parties, so that the proceeds therefrom should be spent on providing for the distribution to those participating in the procession; secondly, a true bilateral contract, "do ut facias," was entered into between the Chapter and the Confraternity, by virtue of which the members of the Confraternity gave the Chapter the sum of "250 pezze" for this express and determined reason, namely, that the Chapter should participate in the procession which was to be carried out alternately in the respective churches of S. Ferdinando and Pia Domus through the public streets of "the Quartiere di Venezia nuova"; and the Chapter accepted the sum and undertook the related obligation. Indeed, the speaker continues, the unnamed contract of "do ut facias" has this very nature, that the recipient must perform what is stipulated; otherwise, what has been given can be reclaimed. However, if the recipient does not perform what was stipulated, not due to his own fault, but because he is prevented by an external and necessary cause from being able to do so, then reclamation is not permitted against him; for when the performance of the accepted obligation becomes impossible, the debtor is manifestly released by law. He recalls that the law 10 of the Code of Condizioni, ob caus. dat. (4, 6) is clear on this point: "It is certain that money given by you, although the cause for which it was given has not been followed, not through the fault of the recipient, but through a chance event, cannot be reclaimed." Furthermore, he observes that, while the Chapter has always and willingly fulfilled the obligation it undertook in the past, it has

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not been able to fulfill it in recent years.

[*Latin ed. p. 339*]

LIBURNEN. 339 "cannot, and indeed is unable, to provide [protection] due to the prohibited public and solemn processions of these times. Regarding this matter, the Chapter notes that it is currently in a situation where, in order that it may not be prevented from doing so because of the sum received from the aforementioned confraternity, it is hindered by an external and independent cause from its own will. Therefore, it cannot protect [the property] that was given to it by the members of the Confraternity of the Most Holy Sacrament and of Saint Julia, and consequently, it can lawfully convert to its own use the benefits it receives from the aforementioned sum allocated for distributions, until such time as public processions can again be held. Moreover, it does not believe that the Chapter can, in any way, be obligated to intervene in the procession that takes place within the confines of the church of Saint Ferdinand. For, according to the proponent, this would be the same as changing the object of the obligation; and therefore, it would be imposing a new obligation, to which no one can be compelled against their will. Furthermore, it does not believe that the deliberation of June 19, 1854, in which the Chapter granted that the fruits which were collected annually from the sum intended for distributions should be used for the sacred solemnities which are celebrated on the third day within the octave of the Most Holy Body of Christ in the church of Saint Ferdinand, can be invoked. For, in the first place, it is certain from this deliberation that no right was requested by the Brothers of the Most Holy Trinity; for it was not to them, but to the Confraternity of the Most Holy Sacrament and of Saint Julia, that the Chapter granted the aforementioned fruits for the aforementioned purpose. Furthermore, it observes that the aforementioned deliberation was manifestly nothing more than an act of pure liberality on the part of the Chapter, which was disposing of its affairs entirely freely and without any legal compulsion. Indeed, it adds that, as can be seen from the words stated, this act of liberality on the part of the Chapter was not absolute, nor unconditional, but was valid "until a new order." It contends that this clause should not be interpreted, as the opposing party seems to understand, as meaning "until public processions can again be held," but rather "until a new deliberation of the Chapter freely disposing of its affairs." Therefore, it concludes that...

[*Latin ed. p. 340*]

340 LIBURNEN. This action was undertaken solely out of pure generosity, and the Chapter expressly reserved the power to revoke it. Therefore, the canon of Liburnen, having been granted this freedom, attended another Chapter deliberation on June 7, 1890, and, as a result, the aforementioned act of generosity was revoked. Furthermore, it is asserted that, if the matter

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is to be judged according to the principles of law, this deliberation is not infringing upon any other right, since the Chapter has legitimately exercised its own right in it. And it is maintained that it cannot be said to be of any validity or effect because the authority of the Ordinary was not interposed, as declared in the aforementioned judgment. Indeed, it is considered that the intervention of this higher authority is not at all necessary, considering primarily the very nature of the act in question. It affirms that the matter does not concern a pious endowment, as the judgment held, but a true bilateral and onerous contract, and therefore, what is established by law in the former cannot be transferred to the latter. Indeed, it adds, there is a vast difference between an act made for the sake of the dead, such as a pious endowment, and an act made between living parties, such as the transaction carried out between the Chapter and the members of the Most Holy Sacrament and of Saint Julia. Therefore, since, from what has been discussed above regarding the nature and character of this transaction, it appears to be established that, as long as the cause persists that hinders public processions, the canons are released from the obligation undertaken, it would also follow that the fruits assigned for distributions should, in the meantime, be yielded to the Chapter, and that the Chapter should be able to dispose of them as it sees fit. Furthermore, it is pointed out that the intervention of the episcopal authority does not appear necessary, considering the nature of the Chapter acting. Although, it says, in law the Chapter is equated to a minor, and therefore, in general, the intervention of higher authority is required in Chapter acts, nevertheless, in this case, it was not necessary because, without infringing upon any other rights, the condition of the Chapter was improved thereby.

[*Latin ed. p. 341*]

LIBURNEN. 341. On the other hand, it could be argued that no action in this matter pertains to the Fathers of the Most Holy Trinity with regard to the Chapter. Although the business was primarily conducted between the Chapter and the Confraternity, nevertheless, the religious of St. Ferdinand and those managing the Pia Domus had some involvement in the proceedings. Furthermore, since the aforementioned Fathers provided nearly half of the sum for the distributions, in order that, from their church on the third day after the octave of the Most Holy Body of Christ, a public supplication might be held with greater solemnity, it would not seem equitable to exclude them from the judgment under the aforementioned exception, and to prevent the parish priest from urging the fulfillment of those things which were established for the increase of the worship of the Most Holy Sacrament in his parish, which can only be accomplished by fulfilling the agreement. Moreover, as it is known from the documents transmitted by the Sacred Congregation, in the present case, the members of the Most Holy Sacrament and of St. Julia are fully associated with the Trinitarians,

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the aforementioned exception would seem to be improperly invoked. Furthermore, with regard to the agreement initiated in the year 1750, it could be observed that it does not entirely correspond to what the patron of the Chapter collected, especially under civil law. For, from the very words that are there, namely "fondo e dote di tale Opera Pia," and also from the intention of those who provided the money, it would clearly appear that the matter concerned dispositions for pious causes, which in some way took on the nature of pious legacies. It does not impede that the disposition takes the form of a stipulation; for, as Lucidi observes in *De Visit. sacr. Um.*, vol. II, chap. 7, art. 2, n. 30: "Although all pious dispositions are usually carried out through the last will and testament, nevertheless, it often happens that they are carried out through any other act between living persons." However, considering these things, when, due to the passage of time or other reasons, the will of the disponer cannot be entrusted to execution, rather than those things which the civil law establishes regarding unnamed contracts, the sanctions of canon law would seem to apply, according to which, as Schmalzgrueber states in *lib. III tit. 26 n. 208*, pious legacies are to be fulfilled so that the testator's will is followed as closely as possible, DEFENSE OF THE FATHERS OF THE MOST HOLY TRINITY.

[*Latin ed. p. 342*]

342 LEGHORN. The will of the founder, whether expressed in a testament or by some other act during his lifetime, should be considered the supreme law in the execution of any pious work. See Cardinal De Luca, notes on the Council of Trent, discourse 21, paragraph 3: "When it is impossible to fulfill what the disponer wished, a supplement or substitution, rather than a change, should be made, so that the disposition does not become void, for the reason that a pious disposition is said to be primarily directed towards God and one's own soul. One or the other work is said to be accidentally destined, so that if it can be fulfilled, the will of the deceased is preserved; but if it cannot, it should be followed in that in which it can be followed." And above, he warned that when the will cannot be fulfilled, its effect must be realized in another work, and that the choice or designation of one or the other work rests with the judgment of the Bishop. With these considerations in mind, how do the Very Reverend Fathers of the Trinitarians and the Confraternity argue? The contract of foundation, dated July 18, 1750, constituted a bilateral agreement, burdensome for both parties, which therefore cannot be rescinded except with the consent of both parties, expressed in the proper manner. Indeed, due to the calamities of time, and with the consent of both parties, and with the Ordinary of Leghorn intervening for the Chapter, which is equated to a minor in law, this contract was supplemented by another agreement in the year 1854, by which the Chapter decided to transfer to the disposition of the Archconfraternity, and in its place, through its representatives—all revenues for the

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aforementioned distribution—so that through said assignment... an analogous function would be carried out in the internal affairs of the Church of St. Ferdinand. Therefore, this agreement appears to have been of the same nature as the original contract, so that the Chapter cannot withdraw from it without the consent of the other party and without the necessary intervention of the Ordinary. In other words, as noted in the reasons for his judgment, the Bishop of Leghorn stated that the concession of this revenue, which the Chapter made in favor of the function in the Church of St. Ferdinand, took on the nature of a true and proper renunciation, authenticated by the intervention of the Ordinary.

[*Latin ed. p. 343*]

LEGHORN. 343 In the year 1854, the Chapter enjoyed and could continue to enjoy legitimate possession, but it wished then to cede; but afterwards, in the year 1890, it could not dispose of it in any other way than as it had established, with the intervention of the Ordinary, determining that the revenues should return to its own fund. Therefore, it must also be concluded from this that the resolution of the Chapter of June 7, 1890, was in no way sustained. Furthermore, the Brothers of the Most Holy Trinity and the members of Saint Julia maintain that that clause of the Chapter, which was added in the deliberation of the year 1854, can be understood in no other way than this: that until that day, the Chapter was legitimately using those revenues, that is to say, that it was not obligated to renounce them until a new order, and that the words should be understood until a new order, and not, indeed, from the part of the Chapter, but from the part of the Ordinary. And so, they remember, it was always done before. For, indeed, the sum of *summa* concerning which there is a dispute, which was paid out in 1786 for the celebration of Masses, was only at the mandate of the Archbishop of Pisa; and the sum which was paid into the Chapter's treasury in 1849 was only at the mandate of the Bishop of Leghorn; and finally, the sum which, in 1854, was designated for the function to be carried out within the confines of the church of Saint Ferdinand, was only by the authority of the Ordinary of Leghorn himself. And they believe that this is confirmed more and more, because the aforementioned sum of "250 pezze," which was granted to the Chapter in 1750, as I have noted above, appears to have the nature of a pious legacy or a disposition for the purpose of worship. Indeed, the Council of TRENT, Session 23, De Reform, Chapter 8, expressly states that all things which are instituted for the worship of God should be known and carried out by the Bishops themselves, by virtue of their office. Therefore, they conclude, the Chapter could not, in the year 1890, decide or change anything on its own. Furthermore, it appears entirely in accordance with equity and canonical regulations that, when someone is unable to fully perform the object of a certain obligation due to a subsequent impediment,

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he must at least perform it in such a way that...

[*Latin ed. p. 344*]

344 LEGHORN. Let the circumstances and times permit. And it seemed manifestly fitting that the Chapter, in its deliberations of the year 1854, should decide to cede the fruits [of the endowment] to the Archiconfraternity, so that a procession might be held. Hence, with processions prohibited in public streets, the same Chapter seemed to be obligated to carry it out within the church, otherwise, the distributions that had been assigned for this purpose would have to be lost. These are further confirmed by the example of the supplications of Rogations and other similar occasions. Furthermore, the presumption of the will of the founders could not be invoked inappropriately, for if they could have foreseen unjust laws, they would have expressly cautioned against this in the founding documents. Nor does the Chapter perhaps object that it fulfilled its obligation in the manner permitted by the circumstances, having sufficiently consulted in the deliberations of the year 1890, in which it decided that the sum of the revenues should be divided, so that half should be ceded to the canonical interests of the procession, and the other half should be ceded for the solemn exposition that the members of the Perpetual Adoration make in the cathedral, on that aforementioned Sunday. For the purpose of this pious foundation was not only, as the Chapter states, to benefit and honor the Most Holy Sacrament, but also the spiritual edification of the faithful, as is noted in the contract of the year 1750. Indeed, the procession within the church of St. Ferdinand, compared to that which is held in the Cathedral, would undoubtedly better serve this purpose. Moreover, since the procession in the Cathedral on Sunday, within the octave of Corpus Christi, was also to be held by the Chapter, it is by no means clear how, in the deliberations of the year 1890, consideration was given to the cult of the Most Holy Sacrament. With these observations, the following questions are proposed: I. Should the opinion of the Bishop of Leghorn of March 16, 1891, be confirmed in this case? II. And how, if the cause persists, should public processions be...

[*Latin ed. p. 345*]

LIBURNEN. 345 Regarding impediments, the sum should be allocated for distributions in the given case. RESOLUTION. The Holy Office of the Council, after discussion on May 21, 1892, decided to respond: The Bishop should take care of the matter until the present circumstances persist. PARIS. MARRIAGES. On August 27, 1892. Session 24, Chapter 9, Concerning reforms in marriage. SUMMARY OF THE FACTS. In the year 1889, on the seventh of November, before the parish priest of the place commonly called Courbevoie, in the diocese of Paris, Stephanus Céron, a doctor residing in Lutetiae, Paris, and Martha Armandina Bonnecaze,

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of the same place, also a doctor by profession, twenty-four years of age, were joined in a legitimate marriage. Approximately two months before the wedding, the fiancé appeared before the bride and her parents, who were previously unaware of him, once or twice a week, and during these visits, he seemed to be a civil, prudent, and well-mannered young man. However, being burdened by debts, he desired nothing more than the promised dowry of the bride, in addition to a substantial sum, conforming to those who, as Chrysostom said, "seek only this in marriages, namely, how much the woman abounds in wealth, and place all other things in a secondary position." Indeed, this should also be considered among those for whom, according to the testimony of St. Bonaventure, "marriage is rather a brothel, public or private, than a marriage." On the other hand, Martha was a young woman adorned with modesty and Christian piety, which is why she desired marriage in order to experience the joys of motherhood. The man, however, from the threshold of marriage, did not show himself to be lovingly united with his wife, and he rebuked her for her modesty, using words to...

[*Latin ed. p. 346*]

346. PARISIEN. He began to receive her badly, constantly discussing obscene and most vile matters with her, and, neglecting the natural marital act, he committed dishonorable acts against the miserable and inexperienced girl, who soon afterwards suffered serious harm to her body. When Marthe's parents learned of this and witnessed it with their own eyes, deeply troubled by legitimate anxieties, they diligently considered how to save and free their daughter, and sixty-five or sixty days after the marriage, the father took her from the husband's house to his own home, and on February 23rd of the following year, he obtained a decree of divorce from the civil judge. The girl, fully aware of the ineffectiveness of such a decree with regard to the marital bond, shortly thereafter, on March 24th of the same year, sent supplicating letters to the Most Holy Pope, asking him to deign to grant her a dispensation from the unconsummated marriage.

A SYNOPTIC DISCUSSION: THE OPINION OF A CANONIST. Firstly, here, I observe that the Benedictine prescriptions, under the watchful eye of the most distinguished defender of the marital bond, were duly observed in all substantial respects. The records contain procedural documents from the husband's side, because he, having been summoned to appear in court three times, stubbornly persisted in his refusal, and did not designate witnesses who could testify against the accuser's statements and allegations. In this, nothing is found that would impede the cause; this is clear to all. For the wife is not bound for the husband, LL. 2 and 3, C., nor is the wife. Therefore, since Parisien was in contempt of court, the defender of the bond, guided by the best counsel, wished to summon two witnesses from among his relatives, who were indeed summoned by virtue of their civil status,

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and they appeared and testified under oath of truth. Finally, with regard to the examination of the girl's body, it was conducted by four physicians, and not by midwives, which, although not strictly in accordance with the law, is not considered contrary to the law, since this does not exclude the use of physicians, and their assistance is sometimes necessary.

[*Latin ed. p. 347*]

PARISIAN. 347 decrees, Chapter 3, concerning those who are frigid and who have a bad constitution, and that midwives themselves should be instructed by physicians, as prescribed in the instructions issued by the Sacred Congregation of the Council on August 22, 1840. But let us now examine the reasons for the case, for this purpose, to investigate two things: 1. Whether, according to the norms of the sacred canons, it is sufficiently certain that the marriage has not been consummated. — 2. Whether there are sufficient reasons and grounds that suggest that the Holy See should consider granting a dispensation from the marriage that has been contracted but not consummated. The woman, having sworn an oath and having been well instructed about the gravity of the oath, declared before the ecclesiastical judge, in express terms, that she had never had perfect marital intercourse, that is, intercourse that consummates the marriage, and that she had never even approached it in a conjugal manner, even though they had used the same bed for sixty nights and more. When questioned about the causes of the lack of consummation, she replied that she had often expressed to her husband a strong desire to become a mother. However, the husband refused to have children, citing poverty as an excuse, or sometimes gave a response from which it can be inferred that he was impotent: "My husband would say to me, refusing me what I desired: There are men who do not have children. It was this phrase that made me think, after the fact, that my husband might be impotent." Meanwhile, the husband indulged in, or demanded, scandalous luxuries with his wife. These abominable acts were not unnatural acts with the involvement of men, but rather repeated acts of lewdness, obscene kisses, etc. Thus, as a result of the frequent sexual acts and excitations inflicted by her husband, the innocent woman received very serious injuries to her genitals. Furthermore, the young woman, as she testified before the judges in the aforementioned chapters, had previously, and indeed at a time when there was no suspicion, recounted the same things to her parents, as the father testified, and as the mother herself testified. In the woman's declarations, we clearly have testimony of the lack of consummation of the marriage.

[*Latin ed. p. 348*]

-348 PARISIEN. which, due to the cause of this lack of consummation, which is probably the impotence of the husband, or certainly due to the foul malice of the same, must be considered. However, although the testi-

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mony of the wife is to be held in high regard, especially as, in this case, she immediately declared in the beginning of the matter, as stated in Chapter 1, "De frigid, et malefic," nevertheless, in order that it be confirmed by the testimony of seven witnesses, the law wisely decreed, as stated in Chapter 7 of the *Litterae*. Therefore, the orator's father, a physician, testified under oath, stating that he believed his daughter deserved absolute faith and that she had remained chaste. The same was confirmed by the mother under oath. Bernardina Ferrier, the orator's cousin, testified to her veracity. Regarding the cause of the lack of consummation, she stated that she was convinced that it was due to the husband's impotence, and because she knew that he was impotent, she declared to her husband from the beginning that she would never be the mother of his family. Another sworn witness, Anna Krompholtz, the orator's mother-in-law, testified regarding the sincerity of the same and regarding the cause of the lack of consummation, stating that she is certain that it was due to the husband's impotence. The same testified that Maria Patras, a schoolmistress of the elementary school of Courbevoie, and Armandus Bonnecaze, the actor's brother, a laureate in medicine, declared that his sister's veracity was absolute. Finally, three other Parisian physicians, friends of Doctor Bonnecaze, who were absent from the celebration of the orator's marriage, testified under oath before the judges, affirming that they had full faith in the actress's statement that the marriage had never been consummated. Truly, contrary to the wife's affirmation regarding the lack of consummation of the marriage, and to the unanimous testimony of seven witnesses regarding her honesty, veracity, and Christian piety, there stands the husband's extrajudicial declaration. "I cannot, out of respect for the truth," he wrote to the Parisian Court's fiscal promoter, "agree with the hypothesis of the lack of consummation of the marriage between Marthe Armandine Bonnecaze and myself. Between the two of us, the carnal union has been consummated." Then - perhaps because he was trying to suppress the anguish of his conscience? - he added: "Suppose, however, that things had gone differently: do you think..."

[*Latin ed. p. 349*]

PARISIAN. 349 "And would this argument be suitable to invoke on behalf of a truly Christian and well-born woman, especially after only two months of conjugal cohabitation?" - These words clearly reveal a mind that is uncertain and preoccupied, since it is scarcely understandable why it would be improper for a Christian wife and citizen, especially after only two months of cohabitation, to invoke the argument of consummation, in order that the marriage contract be dissolved by the Pontiff. Moreover, I strongly suspect that the man's mind was not such, but that he himself, while the other was writing this, was thinking about his own impotence. Whatever it may be, it is certain that the angry testimony of one spouse does not prove the obstinate extrajudicial affirmation of the other. "For a

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witness is not believed unless he is sworn." Cap. Concerning witnesses, recently. And: "The testimony of sworn witnesses alone is valid." Cap. Furthermore, in the same title. Moreover, there is certainly no lack of a sworn witness who has affirmed the consummation. Henry Panes de Courteille, the husband's nephew, aged thirty-four years, duly summoned and testifying under oath, stated: "At my request, he (the husband) affirmed very categorically that the marriage had been consummated... I have the utmost confidence in the loyalty of my cousin Céron, and therefore I believe him when he tells me that he did everything he could to consummate his marriage." How much weight this testimony has, the Fathers will easily judge, especially since I have transcribed these words spoken by the same witness: "I can add that the doctor (that is, the wife's husband) was aware of about ten mistresses, that is, concubines, whom I have known, and it is very likely that he did not know all of them, and that there was never any mention of the doctor Céron's impotence." From this testimony of friends and relatives, it clearly emerges spontaneously that the doctor was a young man of very bad morals before the marriage, and therefore not worthy of any trust. The other thing that the witness especially emphasizes, namely that he was not impotent, is by no means confirmed by the fact that he never heard anything about his own impotence, even though he had so many concubines; on the contrary, such concubines...

[*Latin ed. p. 350*]

350. PARISIEN. The absence of any offspring is rather an argument that he was, in truth, incapable of procreation. But another witness was heard by the judges, summoned by order of the court in favor of the husband, namely, his cousin, who had already testified at the marriage celebration. This witness is named Julius Blanchart, aged fifty-six years. When questioned about the consummation of the marriage in question, he replied that he did not wish to inquire into such a private matter. When questioned about the honesty and veracity of the cousin, he said: "I have no reason to suspect the words of Céron or of Madame Céron, née Bonnecaze." When questioned about the cause of the lack of consummation, he simply replied: "I know absolutely nothing," daring to affirm nothing about the lack of consummation itself, nor to praise the honesty of the cousin. Therefore, I believe that the declarations of the witness should be considered legally, and also extra-legally, by the local populace, as confirmed by the parish priest of Courbevoie, namely, that the marriage of the aforementioned parties was not consummated, and indeed for a probable reason, because the husband suffered from impotence, a condition resulting from unrestrained venery from his youth, even from childhood. Now, let us proceed to what we are taught in the Acts concerning the examination of the body. These matters are, of all things, of the greatest importance, and are increasingly being considered in the theme, since all acknowledge that the confession

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of the husband is lacking from the procedural records. Nevertheless, such evidence is not of such weight that, unless clear virginity shines forth from it, the same is considered doubtful in every respect. Indeed, the physical sign of incorruption, guided by nature itself, is not perfectly found in all girls and in each one equally. In these cases, the hymen, like a delicate membrane, closes the entrance so that, unless it is broken, no man can enter, and then the intact seal of virginity is an unshakeable argument. In these cases, the same membrane behaves naturally in such a way that, when a man approaches, especially if he is less careful, it easily yields, and, as he withdraws, it returns to its previous state; and then the preservation of the seal is in no way proof. Finally, what remains of nature...

[*Latin ed. p. 351*]

PARISIEN. 351 The conjugal bond, by its very laws, is corrupted; and likewise, a depraved hand can corrupt it. Therefore, there is no evidence in the case of a clandestine violation that the marriage has been consummated. Thus, as we are taught both by the ancients who wrote on physiological and medical matters (e.g., Zacchias, *Quaestiones medico-legales*, L. IV, Tit. II), and by more modern authors (e.g., Briand and Chande, *Manuel de médecine légale*, page 90). Having these things in mind, let us hear what the medical experts, who, after a diligent examination, have testified under oath, have to say about the virginal state of the woman in question. This woman was examined by two successive physicians shortly after the separation from her husband, at the request of the woman's father. These physicians, having sworn before the judge, testified that the woman was a virgin. Both experts, without any prior bathing, examined the woman, because, indeed, this is considered necessary only to detect fraud, which, in this case, no one suspected concerning her. However, since the Benedictine Constitution rightly requires bathing, the judges wisely decided that the woman should be examined again, properly and with all due precautions, by two other expert physicians. And so, in Paris, at the convent of the Augustinian Sisters, this examination took place, in the presence of one of the sisters who testified under oath about this matter. After completing his examination, the first physician concluded as follows: 1. No trace of rupture is observed in the hymen. 2. Given the natural configuration of the hymen, it cannot be affirmed that the woman has never been penetrated by a man, and that the marriage has not been consummated. 3. Nevertheless, in the examined organs, there is nothing that denotes "denotation." After confirming these statements before the judge under oath, the witness was asked if he had anything further to add to his testimony, to which he replied: "After having heard the depositions of the father of the plaintiff and of Doctor Piquet, I believe that the state of laxity of the organs of Madame Bonnecaze could be explained by the abnormal practices exer-

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cised upon her by her husband."

[*Latin ed. p. 352*]

352. PARISIEN. Another, a skilled physician, having duly examined the woman in the same hospital, and on the following day, after an inspection, declared under oath that he had found the hymen to be entirely intact. Therefore, four expert physicians, unanimously judging and confirming their judgment under oath, found, in the young woman who was the plaintiff in the divorce case, the signs of virginity to be complete and uncorrupted, even after the separation from her husband, as decreed by the civil judge. Indeed, this is the primary matter to be considered through an examination of the body. As for the second question, namely, whether the signs, or the hymenal membrane, are so configured that intercourse can absolutely occur without any tearing of the same, this is generally uncertain, depending both on the greater or lesser laxity of the hymen itself, and especially on the size of the male member. Consequently, in such cases, experts often doubt or even disagree to some extent. However, such doubt or disagreement, arising as it does from the very nature of the matter, cannot be of service. Therefore, it is permissible to conclude regarding the first question mentioned above. We have sworn testimony from a young woman of ingenuous character and of the best reputation for honesty, that her marriage, though legitimately contracted, has never been consummated, due to the fault of her husband. Seven witnesses, with one voice, praise the truthfulness and fidelity of the aforementioned woman, and declare that the marriage is, in fact, unconsummated. The examination of the body reveals nothing that contradicts this testimony, but rather demonstrates and exhibits the attributes and signs of virginity to be complete and uncorrupted. Furthermore, since in this type of case, more morally convincing evidence is required than strict proof, I do not see why we should not rightfully demand that the Pope may, with benevolence, grant a dispensation in such a marriage, as it is ratified but not consummated. As for the reasons for a dispensation, I scarcely see why I should linger in inquiring into such matters, when, from the very accounts of the discord between the spouses, it seems to me that there are already present, and indeed in abundance, grounds for a dispensation.

[*Latin ed. p. 353*]

PARISIEN. [353] They render the separation not only undesirable but also necessary. Indeed, if it should ever be fitting to declare a marriage valid but unconsummated, it is especially so when these circumstances concur, namely: 1. The danger to the faith of the wife, due to the infidelity and impiety of the husband. 2. The contempt for the sacrament, on the part of the same husband, who, even at the urging of his wife, desires to use unlawful venery, and certainly does not wish to procreate children. 3. The perver-

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sity of the husband, which leaves no hope for the reconciliation of souls. It is certain that these three circumstances are present in this case. THEOLOGIAN'S OPINION. The consultant believes that this marriage was not consummated; however, it must be noted that here we are speaking of a true and proper defect in consummation, either because the husband is held back by impotence, or because, although he is capable, he has not consummated the marriage, either materially or formally. It is clear that the element of the effusion was lacking in the proper vessel, which would indicate a formal consummation, namely, that required for procreation, but neither was there a penetration of the vessels, from which material consummation is evident. In short, there was no consummation whatsoever. From the foregoing, the marriage is established. Although Marius did not demonstrate anything when entering into it, which would show that he was moved by a wicked purpose, otherwise, it is now gathered by the sworn testimony of witnesses. Armandina considered marriage to be an institution established by God for the purpose of having children and raising them piously, as befits a woman raised by virtuous and pious parents. Therefore, we know that she has manifested this most honorable desire to have children, not once, but repeatedly. The witness, Henry Panet, Marius Céron's uncle, does not deny this. Therefore, did the husband not feel anything for his wife? It should be noted that Doctor Céron does not have the right sentiments regarding religion, morality, and honesty. These things, which are held in esteem by good people, he despises. Virtue and honor, according to him, are empty words. From these things, everyone can now understand his sentiments regarding the sanctity of marriage and its duties, and it is morally certain that he has considered the duties arising from marriage as something utterly indifferent, which are to be carried out with a cold and indifferent demeanor. *Acta, Tom. XXV. fol. XCIV. 23*

[*Latin ed. p. 354*]

354. Quae res Parisiensis facere aut non facere debebat, secundum quod utilitas docuit. Si quis ita se gessisse vult dicere, et aequalitatem praetendere, quia illa officia implere non potuit. Nec in vanum hoc opinaretur, cum ex actis appareat, ipsum timere accusationem impotentiae, et omni modo conari, ut se potentem esse demonstrat. Nec animi sua affectus notatos solita est joco manifestare. Peiora sunt quae sequuntur, et ea referre censeo, quae clare et manifeste ostendunt cur matrimonium inierit, quae de eo vera deliramenta protulerit, cum nullam pertimesceret manifestationem in sui detrimentum. Ipse enim confidenti colloquio animam suam aperuit cum familia sibi amicitiae foedere de victa antequam matrimonium contraheret. Dicebat: "Femina erat res mobilis, quae valore habebatur, eo quod redibat: hoc solum considerandum erat in matrimonio..." – addit testis – "...non desiderabat se matrimonium contrahere ut liberos haberet, sed ut pecuniam haberet." Ad quid haec

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omnia? Certe vel quia propriam impossibilitatem consummandi – non ignorabat, aut quia vir pessimi consilii, ad bona matrimonii non onera animum suum vertebat. Et inito matrimonio, quae mens eius praevia? quae intentio praecedens? Dotem adipisci et frui, et matrimonium non consummare. Haec mens vera et haec intentio eius. Verum inito coniugio, consummationem nulla erat in eo voluntas; et uxori prolem desideranti, respondit his verbis, vitioso homine dignis: "Non eramus tam divites ut nos lusus liberi darentur, et pro eo non voluit." Hinc ad uxorem accedebat, non eo fine ut matrimonium compleret. Nam actio illa quam natura insinuat, hodie ab hominibus abhorreri dicitur. "Accomplishment of the conjugal duty was a vulgar thing... Today men seek other, more refined pleasures." Sic refert Armandina ad Summum Pontificem. Haec, consummationem nec materialem intervenisse, non probant, sed notanda sunt, quia ipsam dubiam esse insinuant. Iam meliora et validiora argumenta propono, quae null-

[*Latin ed. p. 355*]

PARISIAN. 355 They confirm that the consummation has taken place. Armandina, under oath, denies that the marriage was consummated, while the husband, without taking any oath, affirms that it was, because he was repeatedly summoned to attend, but refused to do so. Whose testimony should we believe? Should we believe Armandina, or Marius? Ordinarily, credence should be given to the husband, because he is the head of the wife; but not when there are ample reasons to suspect that he is lying. As we have seen before, this man is not of good character. His sentiments regarding marriage are deplorable, as is evident from the words he has uttered. He was compelled, for the sake of utility, to enter into the marriage, and his own words abundantly attest to this. What is surprising is that he now confidently affirms that the marriage was consummated, also for the sake of utility. He is the only one who affirms that it was consummated, and that not once, but repeatedly. In a letter to Doctor Picquet, he bitterly complains that this doctor, of no small reputation, has not confirmed Armandina's virginity with his testimony. He affirms, not once, but repeatedly, that the marriage was consummated. But if he was able to consummate it, and desired to do so, why did he refuse to provide his own testimony to defend his case? As the witness Bureau rightly observes, "mon opinion personelle, est que s'il était vraiment puissant, il aurait ne pas se laisser condamner." If this is the case, then who is so foolish as to be ready to believe him, simply because he confesses it? Indeed, he who impudently denies everything about himself, and adds lie to lie, certainly does not fear to deceive us, and we have the right to argue against him. You were motivated by utility to enter into the marriage, and now you affirm that it was consummated for the same reason. The testimony of the witness, P. Fagit, Vic. Gen., in his letter to Cardinal Prefect, should be heard, with all exceptions. It seems

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that this was the intention (D. Ceron), namely, that he would be pardoned for the sum of money that he should have returned to his wife, who was claiming her inheritance from her father, and which he should have used to pay his debts, if he abstained from taking any action contrary to this. Fearing, however, that he would be accused of impotence, he wanted... to assert his virility, affirming the consummation of the marriage. These suspicions would not go beyond suspicion, unless...

[*Latin ed. p. 356*]

356. PARISIEN. A certain witness, namely the noble Favet de Courtelle, cited by order of the court, and having added his testimony under oath, testified that he knew and testified that, in the present matrimonial cause, such a consent had occurred through the mediation of advocates, according to which V[ir] I[udicium] R[omanum] PETITAE DISPENSATIONI EX INCONSUMMATIONE NON OBSTARET, provided that: a) it was not intended to allege nullity due to the husband's impotence, but only a dispensation from consummation was sought, otherwise he would oppose the nullity; b) that a portion of the dowry be assigned to her, which she would be obligated to restore. This testimony was affirmed under oath and signed, but with the condition that the matter remain entirely secret, lest grave enmities arise therefrom. The authority of this singular witness, and the trust he deserves, are indicated by the Most Reverend Vicar himself with these words: "That witness is not a blood relative of the man. Therefore, he would have wished to favor him, unless the truth had prevented him." This is what he said. From these things, it may be argued that D[ominus] Ceron was of a divided mind at the very same moment, confessing both consummation and lack of consummation, provided that he was not judged impotent, and that, moreover, the portion of the dowry was freely granted to him. Furthermore, he who affirms and denies, opposes and concedes, as utility dictates, no one, unless he has lost his mind, will claim to deserve belief. Therefore, the consummation of the marriage so often boasted of by Ceron is a pure and utter lie. While I do not believe that the physician Ceron deserves any credit, I think it should be said differently regarding the woman in the case. All, with one voice and unanimous accord, testify that she deserves full credit. They praise her honesty. They do not hesitate to affirm that Armande is distinguished by the integrity of her morals. They do not even suspect that a lie could come from her mouth. Her parents, but also outsiders, praise her. The supporters of Ceron, when asked whether Armande should be believed, whether she is truthful, do not affirm it, but they do not dare to deny it. They state that they do not know her perfectly. In addition to this, there is her readiness to submit to any examination that the ecclesiastical court may deem necessary, in order to demonstrate her

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virginity.

[*Latin ed. p. 357*]

PARISIAN. 357 The virginity is proven. This promptness is lacking in the husband, who maintains silence in his own cause, and it suffices for him to affirm that the consummation has been completed. This opposite method of acting proves the good faith of Armande, and the bad faith of the doctor Ceron. Furthermore, she herself affirms, not once, but repeatedly, that no consummation took place. Armande's assertion must not only be considered true, because it is deemed to be free from falsehood, but also because the doctor himself testifies that she is still a virgin. Certainly, Monsieur Ferrand is not privy to intimate details, and he does not dare to assert that marital acts have taken place. And considering the structure, and the looseness of the hymen, he hesitates whether he should affirm or deny the consummation. Nevertheless, he also testifies that the hymen was intact (Certif. Conci. i.). He repeats that the hymen was intact in the deposition made under oath. From these facts, it is easily determined what the situation actually is. The experts agree that the hymen was intact. Furthermore, Gasparri states in his most recent Canon Law treatise, No. 1065, that marriage is to be considered valid only if the hymen, which closes the vagina, is intact, for this indicates that semen has not been introduced into the vagina. Therefore, according to the law and the jurisprudence of the Holy See, marriage with an intact hymen is not considered consummated, unless other circumstances, confirmed by the advice and testimony of doctors, indicate otherwise. Two difficulties arise here, one on the part of the husband, and the other on the part of the wife. On the part of the husband, because no examination was made. On the part of the wife, because a certain looseness of the hymen was found, which seems to suggest the consummation of the marriage. For, as Cosci states in book 1, chapter 16, number 54, one will not be able to obtain a dispensation from a valid marriage if the midwives find her genitals relaxed. Indeed, the first difficulty, in no way removes from my mind the moral certainty of the lack of consummation. The examination of the husband was entirely impossible, precisely because he, having been summoned repeatedly, refused to obey. Furthermore, the husband's obstinacy is to the detriment of...

[*Latin ed. p. 358*]

358. The Parisian woman should not be bound. All the more so because the examination of Armande clearly demonstrates sufficient evidence that the marriage remained valid. Regarding the other difficulty, I confess that, at first, I was hesitant and that I believed that this laxity, at least, suggested a doubtful consummation of the marriage. However, having considered the matter more thoroughly, I do not believe this to be the case. Indeed, the experts themselves unanimously state that the hymen was intact and that

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there was no tearing, scar, or indication of rupture. Given this integrity, it follows that Armande possesses the mark of virginity, all the more so because this laxity does not indicate a violation. I use here the words of Zachaeus, which are very fitting for our case. In his consultations and responses, he recounts that two midwives, because of the laxity of the vulva, declared that virginity was lost. To this, he responds: "Furthermore, we have indicated another sign, namely, the laxity of the uterus itself... for, neither the narrowness of the vulva can prove the integrity of virginity, nor the laxity indicate defloration, because... you will find that among some virgins, in whom no suspicion of defloration can be imagined, there are some who have such open and lax passages, indeed, so moist, that not even a prostitute... would have such open or lax passages... On the other hand, some... have a uterus so constricted that, even if they are aroused many times a day, they do not retain even the slightest trace of compression. Thus (Cons. 41), it would be falsely concluded that virginity was lost because of the laxity. Having considered these matters properly, I believe that the marriage between Armande and Marie remained only valid. If this is the case, it must now be considered whether to petition the Holy See for a dispensation, which Armande requests. When a marriage is considered valid, and either one or both parties are clearly and certainly impotent, it is fitting to gently encourage them to re-establish a common life. The Parisian Curia did not neglect this, as the Vicar General confessed in a letter to the Prefect of this order. Indeed, we objected to the woman that the cohabitation had been...

[*Latin ed. p. 359*]

PARISIAN. 359, concerning the matter which could turn to the detriment of her husband, namely, the lack of consummation of the marriage, and especially, attributing this to his own impotence; moreover, her parents assert that it is impossible to live with a husband who is irreligious, obscene, and infected with venereal diseases. This impossibility of reconciliation is confirmed by all the witnesses, even those of the opposing side. Ceron himself does not certainly oppose the dissolution of the marriage, but he does object, in no way, provided that he can serve his own interests, that is, provided that he is not declared impotent, and is not compelled to return the dowry. Therefore, for both of them to desire a union would be the same as for her to renew those very inconveniences which Armandina justly deplores today. Moreover, as D. Picquet testifies, the husband has gone so far as to threaten Armandina with armed violence if she should reveal anything about their private life, or if she should confide secrets to others. In such a case, no one would contend that the woman should re-establish a common life with such a man. For what can one expect from a man who professes to believe neither in virtue, nor in honesty, nor in religion? And conversely, what is there that she should not fear from a

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man who spends his wife's dowry, and who, according to the measure of the money she brings him, despises and undervalues her? It must be added that the divorce has already been legally declared in the civil court, and the tribunal has ratified everything that Armandina has testified against her husband. Therefore, what reconciliation can there be between them, if the divorce, legally declared and sanctioned, favors the woman who is averse to living together, and does not displease the man? Thus, reconciliation is impossible. If this reason were sufficient to obtain a dispensation, I would immediately conclude that one should petition the Holy See. However, another reason arises. Armandina requests a dispensation *post matrimonium consummatum*, which she proves abundantly, either because she does not will, or because she cannot, maintain chastity. For why does she implore the Pope's indulgence, unless it is because she not only does not abhor a new marriage, but, given the opportunity, would gladly enter into it? As for the doctor Ceron, I say nothing at all. If he is sickly, ill-mannered, as far as he is concerned, it is the same as if he had a wife or not.

[*Latin ed. p. 360*]

360 PARIS. Conversely, concerning the petition for dispensation, the matter of Armandina is considered, who, having been given in marriage to another and a better man, a man more worthy of her due to his virtue and honesty, will find happiness. OBSERVATIONS OF THE DEFENDER OF MARRIAGE *ex officio*. I, Stephen Céron, to whom Armandina Bonnecaze, aged 24, was happily married on November 7, 1889, bid farewell in the waning days of January 1890, after having shared 66 days of marital union with him. Armandina was the cause of the non-consummation of the marriage; but Henry Pavet, a witness *ex officio*, is accused of causing the non-consummation. Another witness *ex officio*, Victor Blancard, testifies that he heard from the aforementioned groom, Céron, that the marriage had been consummated. I lament that the Parisian judge did not also summon other witnesses, and especially Armandina's maid, for examination. Perhaps the Parisian judge deemed it superfluous to hear other witnesses *ex officio* due to a very eloquent fact, which the judge himself, in a letter addressed to the Prefect of the Sacred Congregation of the Council, dated June 12, 1891, recounts, and which he includes as an attachment, read by the Reverend Father D. S. C., Secretary, during the general assemblies. But, I ask, what credence can be given to Armandina and to the witnesses brought forth by her, when it is proven that she, through solemn agreements, by the ministry of lawyers, obtained the restitution of a considerable dowry to the aforementioned man, in order that he might abstain from the judgment? Truly, the parish priest of Benac is honest, who writes that, in order that Armandina might be excused from the expenses of the lawsuit before the Sacred Congregation, her parents have deprived themselves of a considerable portion of their

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substance, in favor of their beloved daughter. With these things stated, I shall proceed briefly to the testimonies presented by the medical experts. Furthermore, four medical experts examined the body of Armandina; two at the request of Armandina's father, and two at the order of the judge. The first two are extrajudicial, and therefore, etc. As for the testimonies of the medical experts *iudiciales*, despite the ambiguity of the words, despite the effort expended by them...

[*Latin ed. p. 361*]

PARISIAN. 361. The facts displeased the actresses, and the bright southern light clearly revealed the physicians Ferrand and Bucquoy, who, concerning the virginity of Armandine, do not vouch for it any more than the archiatre Lapponi and the midwife Masi vouch for the virginity of Mary Bailat. Once the facts reported by the examining physician Ferrand have been admitted, no sane person can affirm the virginal integrity of Armandine. Nor does anyone dare to question these facts, because the expert Ferrand testifies to things which he saw with his own eyes and handled with his own hands, and Armandine has no intention of harming anyone. Consequently, another judicial physician, Julius Bucquoy, who is attempting to defend Armandine, will not deny the facts reported by Angelo Ferrand, but will rather relate them in a mitigated manner. With these observations, the following question was proposed to be clarified: Whether it is lawful to demand from a mother a dowry for a daughter who has not been married and has not consummated her marriage. RESOLUTION. After deliberation, the Sacred Congregation, on August 27, 1892, decided to respond: Affirmative. FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS OF ROMA: A SUMMARY OF THE CASE CONCERNING A MUTUAL AGREEMENT AND FRUITS. Father John, from the religious Family N., received, since 1871, from Peter, a loan of 50,000 livres, to be repaid after three years, according to the agreement of five livres annually for each hundred, claiming that this money was to be used for expenses incurred by the library, which was essential for the Order. The annual interest, as had been agreed, was paid in full until September of the year 1888. However,

[*Latin ed. p. 362*]

362 From this time onward, affairs began to take a different turn in ROMANA: for Father John no longer paid any interest on the principal. This prompted Anne, who, together with her sister Barbara, the sister of Peter, had been the heir to the property, to begin negotiations with the Superiors of the Religious Family, both regarding the payment of interest and the restitution of the loan, since, according to a written declaration by Father John, the aforementioned sum had been advanced to the Order for the aforementioned library. However, Anne's efforts proved fruitless: for the

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Superiors of the Order maintained that they owed nothing, even though the money had been borrowed with a view to the aforementioned library, arguing that the Religious Family had nothing to do with the library, for which the money was said to have been spent. Upon hearing this, Anne, without delay, appealed to the Sacred Congregation of Bishops and Regulars, requesting that the Religious Order be compelled to pay both the interest and the principal, since Father John had contracted the loan in the name and by the mandate of the Order, and since the library, for whose benefit the money had been borrowed, was entirely dependent on the Order.

A Synopsis of Anna's Rights. Anna's advocate, in order to demonstrate that the Order was obligated to repay the borrowed sum with the corresponding interest, asserts that, not only from the written declaration of Father John, then the librarian, but also from the very Syngrapha (written agreement) given to Anne, the sum of 50,000 livres, with annual interest of five livres for each hundred, had been handed over to the Fathers; and that this sum had been spent to cover the expenses of the library. And the truth of this declaration is confirmed both by the fact that the interest had been regularly paid for 17 years, and also by a letter written by the same Father John on January 1, 1890, a time certainly not suspect. In it, it is stated that the aforementioned sum had already been repaid.

[*Latin ed. p. 363*]

ROME 363: If, in the trial against the government, initiated both by it and by other curators of the Library, the Fathers of the Order, having emerged victorious, had withdrawn from the arena. This very matter derives its force and strength from a letter which the Roman Reverend Father, Minister General of the Order, had sent to Advocate Anne. Indeed, from this letter it is clear that the aforementioned Minister General declared that the sum of 50,000 livres had been disbursed for the aforementioned Library, and that Father John had attributed nothing to himself from this sum. This, in turn, is confirmed by the prayers and counsels in which the General Procurator of the Order urged Anne to be of a cheerful spirit, and not to reveal the secret of the loan to anyone, assuring her that the money borrowed would be repaid as soon as possible. It cannot be admitted that the letter of the General Procurator is relevant to a matter entirely different from the one in question, since it does not make any specific mention of Anne's credit. For this would be contrary to the fundamental rules of correct interpretation, which teach that every title or matter must be referred to the title or cause of which its existence is uniquely established; and that it cannot be referred to other titles or causes, of which certain and evident proof is not presented. See *S. liota*, December 371, no. 18, before Crescendo; December 198, no. 9, before Pertingere; December 286, no. 17, before Cerro; December 1196, no. 8, before Einer ix, and December

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191, no. 13, before Her rey a. Furthermore, since no evidence is presented to show that Anne and the Order were involved in any other business, of which Anne feared, the advocate concludes that the matter mentioned in the aforementioned letter of the General Procurator exclusively concerns the money borrowed by Anne from Peter, in order to meet the needs of the Library. From what has been stated so far, since it cannot be doubted that, besides Father John, the Minister General of the Order and his Procurator also knew of the existence of the loan and its disbursement in favor of the Library, the advocate concludes that in no way...

[*Latin ed. p. 364*]

364 could be sent to ROMA, since the Curators of the Library were unaware of this. From this, he infers the validity of the loan, arguing that, in order to obtain it, a written document is not necessary, but that the verbal consent is sufficient and even more than sufficient, provided that it is clear from the facts that the money was delivered to the Library as a loan. However, conceding that the Curators of the Library did not give their consent, and that, furthermore, a contract, due to a defect in form, could be considered null and void; nevertheless, he maintains that the religious is obligated to return the money received. For, from the circumstances, which will soon be clearly demonstrated, it is evident that the money requested by Anne was used for useful and necessary expenses, and therefore, it naturally follows that Anne has a right of action *in rem*. Indeed, both natural and civil law proclaim that no one is allowed to profit from another's loss. Nor can the exercise of this action *in rem* be prevented by the fact that something useful derived from the borrowed money, together with the Library, subsequently passed into the hands of the public domain. For, in order for this action to be valid, it is sufficient that the money was used for a useful purpose at the time it was borrowed, even if, by chance or by an event not dependent on the will of the lender, the usefulness of the money has ceased and no longer exists at the time the action is brought. Thus, the text in law 3, § 7, 8 ff. concerning *in rem* actions; and law 17 of the same title, in its beginning. To this, Cuiacius, *Tractatus ad Africanos*, Vol. 1, p. 1460, letter C, and Voet, *Ad Pandectas*, Book 15, Title 3, paragraphs 1 and 2, agree. Nor could the Order be governed by any obligation, based on the fact that the Library, for which the money was borrowed, was an entity distinct from and independent of the Order. To this difficulty, the advocate responds, noting that the aforementioned Library fell into the hands of the public domain because it was held to belong to the Order, which was subject to suppression. However, this is conceded, but not accepted, by the opponent.

[*Latin ed. p. 365*]

In ROMA, on the 365th day, it was nonetheless maintained that the Or-

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der was obligated to Annam, because, since the Order, for its own benefit, had failed to declare the aforementioned debt, Anna had been unable to receive the borrowed money from the public treasury. Moreover, the patron argued that the Order was obligated to reimburse Annam the aforementioned sum, even under a lost hypothesis, because she had not used the sum for the benefit of the library, and furthermore, because Father John, misleading her, had improperly used it for his own purposes. And this was because Father John held the office of President of the library, and had been promoted by the Order to a more important office after having relinquished the office of President. And in confirmation of this, the patron cited leg. i, §§. 8 and 9 ff. concerning coercive actions, which states: "If someone has taken a loan of money, does it appear to have been done for the sake of that thing? And Pegalus believes that if it was borrowed for the use of that thing for which he is in charge, an action should be brought: I believe this opinion to be true. Therefore, Ofilius asks: If someone converts borrowed money, intended for repairing a ship, to his own use, is an action brought against him? And he says: if he received it under the pretense of spending it on the ship, he did not change his intention, and the one in charge will be held responsible, considering such a situation." With these points established, the patron concluded that the Order was obligated to both reimburse Annam the borrowed money and to pay her the accrued interest, from the month of September 1888.

THE RIGHTS OF A RELIGIOUS ORDER. On the other hand, the moderators of the Order argued that the aforementioned debt, along with the accrued interest, was to be paid not by the Order, but by Father John, for this reason above all, because he, independently of the Order, had contracted the debt. Indeed, it is a fundamental principle of law that the one who undertakes an obligation must fulfill it, according to the saying: "Every agreement binds its authors." Furthermore, it seems beyond doubt that the loan of 50,000 [currency unspecified] claimed by Annam from Father John was contracted independently of the Order, indeed, without the Order's knowledge.

[*Latin ed. p. 366*]

366. The Roman authorities assert, as stated in a letter from the General Procurator dated August 31, 1891, and in another dated January 26, addressed to the Sacred Congregation for the Propagation of the Faith. This very thing is asserted and confirmed by the General Minister, who, on May 10, 1892, declared that the Order knew nothing about this matter and had undertaken no obligation. Furthermore, this is gathered from the declaration issued by Father John himself on July 1, 1885: in which he makes no mention of the Order, but presents himself as the sole debtor to Anne, promising that, after a period of three years, he himself would repay the aforementioned sum, and that the interest, exempt from the tax

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on movable property, would be paid towards the extinction of the debt. From what has been explained thus far, it is now clearly apparent that the debt of 50,000 livres was contracted by Father John, in his own name and independently of the Order, indeed, the Order being unaware of it; that it is one Father John alone who is obligated to extinguish this debt, and not the Order. It cannot be maintained that this burden falls upon the Order, since the aforementioned sum was used for the Library, which was under the direction of the Religious. Indeed, this assertion is expressly denied by the General Procurator, who states that it is a fabrication devised by Father John in order to retain 50,000 livres without any hindrance. To this, the General Minister responds, stating that no document has been presented from which it appears that the debt was contracted with the consent of the Library and its administrators. Conversely, from reliable documents, it appears that the administrators of the Library were never aware of anything. Furthermore, he cites the testimony of another of the administrators, who states that he has been an administrator of the Library for many years and has never heard that the Library had entered into any agreement, loan, deposit, or other contract with Anne or her family. Thus, the testimonies of the General Procurator, the General Minister, and finally, another of the Library administrators, cannot be refuted by the assertions of Father John, nor by the response of the General Minister, nor by the letter of the General Procurator.

[*Latin ed. p. 367*]

ROME 367. Indeed, the assertions of Father John are not credible, since they are too general and evasive. I do not presume to judge the response of the General Father, nor the letter of the Procurator Father, both of whom are deceased, and therefore cannot defend themselves; furthermore, from their own words, it is not clear what matter they wished to discuss or address; and finally, besides these two, there were other Curators of the Library who needed to be heard. And even if the General Father had issued some declaration on the matter, it should be held in no regard, since it is known that in the final years of his life, he was not of sound mind. Therefore, since it has not been demonstrated that a loan of 50,000 livres was contracted to provide for the needs of the Library, and that it was disbursed for the benefit of the Library, it is clear that it is in vain that Anne requests that the Order, and not Father John, should answer for such a loan. For it is a well-known principle of law that: "If the accuser does not prove, the accused is acquitted." But more important matters are at stake. Granted, and this is never conceded, that the debt was legitimately contracted to meet the needs of the Library; granted also, but never conceded, that it was demonstrated that the loan was disbursed for the benefit of the Library; nevertheless, the administrators of the Order assert that there is no reason why the Religious Order should be held responsible for the restitution of this loan. For it is

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established that the Library was an autonomous, distinct entity, and independent of the Order. Indeed, the Procurator Father strives to demonstrate this, referring to the Founder, who, in order to provide for the existence and maintenance of the Library, bequeathed a considerable patrimony, and entrusted its administration to certain Religious, by the name of Curators, who therefore received compensation, and retained it for themselves, so that the Religious Order could neither demand an accounting, nor presume to claim anything from what remained. However, the autonomy of the Library and its independence from the Order are demonstrated more clearly than by the assertions of the Procurator Father, by the fact that...

[*Latin ed. p. 368*]

368 ROME. The curators, in the month of December 1860, acquired, through a public instrument, several houses for twenty thousand scudi, by order of the superiors of the Order. Then, from another source, it is stated that these same curators had borne a portion of the expenses of the lawsuit, which they had undertaken to recover the assets of the library, which had been seized by the government. And to support this matter, three documents are presented, from which it is gathered that one of the curators paid 707.09 livres, after the lawsuit was concluded, for his share. This would certainly not have happened, if, as is asserted on the contrary, the library and its curators were dependent on the Order. From these facts, the Reverend General Minister concludes that the Order is not bound by any obligation towards Anne, whether it be a debt contracted by Father John in his own name, or by him on behalf of the library. Certainly not in the first case, because such a burden would fall upon Father John himself. Nor in the second case, because it would be the library itself, or the property that succeeded the library, that would be bound. Since the matter concerns something done between others, or something that occurred between Father John and Anne, or, at most, between Anne and the library, it is easily understood that the Order could not be bound by any obligation. This is in accordance with the legal principle: "Things done between others neither benefit nor harm third parties" (pii non interfuerunt). Nor can fault be attributed to the Order, but rather Anne, or her author, should bear the responsibility. If, indeed, she is unable to assert her rights against the property, it is because she did not declare the debt owed to the property, by which the library is burdened. For, from the confession of Father John himself, it is clear that the debt was not declared to the property, because the creditor, Peter, refused to give his consent, since he did not wish his affairs to be revealed. Furthermore, neither Anne's proclaimed good faith, nor her extreme poverty, are sufficient reasons for the Order to be compelled to pay such a debt, according to the well-known legal principle: "The law aids those who are vigilant, not those who are sleeping," and another equally common one: "In judgments, one

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does not show mercy."

[*Latin ed. p. 369*]

ROME 369. Having established the premise that the Order of Anne is not indebted, and therefore is not obligated to return the sum of 50,000 livres, it necessarily follows that said Order is also not obligated to pay the loan from October 1888, which was not paid by Father John, according to the rule of law derived from *leg. Nihil dolo* 129 ff. concerning the *Regul. Iur.*: "When the principal cause does not exist, neither do those that follow it." After explaining the reasons of both parties, the purpose was to clarify the following question: In what case is a Religious Order obligated to pay the sum of 50,000 livres, with accrued interest, to Anne?

RESOLUTION. After deliberation by the Sacred Congregation of Bishops and Regular Canons, on August 29, 1892, it was decided to respond: Negatively, and furthermore, as follows: It is to be notified to the Reverend Father General, Father John, that he is, by the voice of the Sacred Congregation, perpetually forbidden [from acting] in any capacity. Furthermore, the Sacred Congregation instructs the Reverend Father General to ensure that the superiors of the place where Father John resides are vigilant and take care that he does not, as Anne did, repeat this action.

FROM WHICH THE FOLLOWING ARE DERIVED:

I. Those who enter into an agreement are obligated to fulfill the obligations arising from that agreement.

II. If the accuser does not prove his claim, the accused is to be acquitted.

III. A matter between others does not benefit or harm third parties who were not involved.

IV. No one should profit from their own wrongdoing.

V. The law assists those who are vigilant, not those who are sleeping.

VI. When the principal cause does not exist, neither do those that follow it.

Acts, Volume XXV, page OOXCIV, 24.

[*Latin ed. p. 370*]

370. CIRCULAR LETTER to the Archbishops, Bishops, and Ordinaries of the dioceses of Italia. In these most grievous circumstances, both of the Church and of civil society, the most ancient and beneficial pious institutions, struck and defrauded by sacrilegious acts of their necessary means to religiously fulfill the inviolable will of their founders, demand proper guidance, lest their precious existence be entirely compromised. Moved by this necessity, some Ordinaries have petitioned the Holy See to receive a rule to follow in the face of the new laws concerning confraternities and other pious works. Therefore, to satisfy this just request, this Holy Congre-

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gation of Bishops and Regulars addresses to all the Archbishops, Bishops, and Ordinaries of the dioceses of Italia this circular letter, containing the following practical warnings:

1. If the current circumstances prevent confraternities from exercising charity and beneficence in a particular manner, they do not prevent them from promoting among their members the spirit of piety and devotion, and the exact fulfillment of Christian duties, nor from edifying their neighbor, which is the principal aim of such institutions. Therefore, let the Ordinaries insist that the confraternities continue in the practices of piety, which will also be of greater edification to the faithful, and which cannot be supposed to be inspired by a secondary aim, namely, material interest. As for the maintenance of divine worship, and other works that were proper to the individual confraternities, let the brethren strive to do what they can, within the measure of the means at their disposal, and if the works of their own institute cannot be carried out, let them, if possible, substitute other equivalent works, imitating in this regard the religious orders, which, struck before them by the laws of confiscation, have continued to live a regular life, and at the same time have used every effort to reconstitute themselves and to rise again.

2. However, for this reason, the confraternities must not neglect to defend their assets and their rights, availing themselves of all the resources that the very current laws can provide them; for they are gravely obligated to do so as trustees. For this purpose, let competent persons carefully examine the origin of the assets, and the uses to which they were given by the donors.

[*Latin ed. p. 371*]

LETTERS 371 to the superiors, concerning the conditions under which they were granted, in order to ascertain whether, in virtue of these and similar titles, the Government can refuse to accept their delivery.

3. Should the government extend its rapacity even to those goods which, according to the law, are not subject to public domain or confiscation, such as those destined for the maintenance of parishes and confraternities, these will be in a position to reclaim them, doing everything possible to achieve this.

4. Furthermore, they will take care to preserve, at least in copy, the titles and documents relating to their property, so that they may, at the opportune time, use them to assert their claims.

5. In any case, at the time of the seizure, they will issue a formal protest, demanding that it be included in the record, declaring that they are yielding only to force, reserving all their rights, and not allowing these to be destroyed, or in any way diminished. Finally, in particular cases where special doubts or difficulties arise, the Bishops will seek appropriate instructions from the Holy See.

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The Holy Congregation therefore trusts that all and each of the Ordinary pastors of the dioceses of Italia will employ their well-known zeal and pastoral solicitude to ensure that what is prescribed in this circular is carried out.

Given from the Secretariat of the Holy Congregation of Bishops and Regular Canons, on September 18, 1891.

I. CARD. VERGA, Prefect.

FR. LUIGI VESC., Bishop of Callinico, Secretary.

(Latin Version)

In these present times, both for the Church and for civil society, with the most grievous events occurring, the oldest and most salutary institutions of beneficence are being plundered by sacrilege, and are deprived of the means necessary to religiously safeguard the intentions of their founders. These require a suitable rule, lest documents so precious to public piety should be lost.

Deeply aware of this necessity, certain Bishops of Italia have requested a specific rule from the Holy See, concerning how, in the face of civil laws, the Sodalities and other pious works recently established should proceed.

[*Latin ed. p. 372*]

372. LETTERS must be sent: – Eager to satisfy these demands, the Sacred Congregation, established to expedite the affairs of Bishops and Regular Canons, sends this Encyclical Letter to all Archbishops, Bishops, and Rectors of Dioceses in Italy, containing the practical advice which follows. 1. Although the present circumstances and pious associations impede the performance of works of charity and beneficence in a certain and determined manner; they do not prevent the members, in whom these associations are united, from diligently promoting the spirit of piety and devotion, and from demonstrating to the faithful people the fulfillment of all Christian duties and the good odor of Christ through the sanctity of their lives, which is, indeed, the principal purpose of such institutions. Therefore, Bishops should insist that the associations continue to perform their works of piety; for this will, indeed, gain them greater esteem from the people, when they know that the members are not driven to these activities by any monetary gain. As for the external worship of God and other religious duties which were formerly the province of any association, the members should continue to perform them to the extent that they can, using the resources that are still available to them. If, however, they cannot perform all the works that are proper to their institution, they should, as far as possible, substitute similar works. Just as the Religious Orders wisely do at the present time, who, having long been affected by the fiscal laws of the Italian government, continue to live a regular life, and have used all their resources to re-establish themselves and to revive. 2. However, pious associations must

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not neglect to protect and defend their assets and rights with all the means that the existing laws can provide; for they are, indeed, gravely obligated by the office of a faithful administrator, having received these assets and rights in trust. In order to achieve this, learned men should examine the origin of ownership, or the title of acquisition, of these assets, the special uses for which they were intended by the testators, and finally, the conditions and agreements under which they were given: so that, for these and other similar reasons, the delivery of these assets may not be denied. 3. If, at any time, the civil government extends its greed to the point of seizing even those assets which, by law,

[*Latin ed. p. 373*]

LETTERS 373, or [they] must either assign [the property] to the treasury or transform [it]! Such are those which are destined for the support of Parishes; the Societies should strive to reclaim them, and indeed take care to achieve this. 4. Furthermore, they must diligently preserve, at least in the example of titles, which they call, and documents, which refer to those same goods; so that, when a suitable opportunity arises, they may diligently use them to reclaim those goods for themselves. 5. Finally, in any case, when the royal treasury encroaches upon the possession of the goods, they must express a protest in words, which they must demand be included in writing in the act of seizing possession; by which, indeed, they protest that they yield only to force, preserving their rights; and in no way do they wish or are able to allow those goods to be destroyed or diminished. Moreover, in particular cases, if special doubts arise, they should turn to the Holy See, seeking appropriate instructions, for this purpose. The Sacred Congregation is confident that all and each of the Bishops of the Dioceses of Italia, using the probity with which they are known, and the pastoral care with which they abound, will take care to observe most diligently those things which are here prescribed. Given from the offices of the Secret Congregation entrusted with the affairs of Bishops and Regular Canons, on the eighteenth day of September, in the year of Our Lord 1837. I. CARD. VERGA, Prefect. f FR. AL. E P. CALLINICEN, Secretary. FROM THE SACRED CONGREGATION OF RITES. From Strigonium. Various doubts. Most concerned, the Most Reverend Ordinary of the Archdiocese of Strigonium, in Hungary, having come before the Sacred Congregation of Rites for a suitable resolution of the following doubts, so that all the rites pertaining to the divine worship are carried out completely in his Archdiocese, according to the liturgical prescriptions:

[*Latin ed. p. 374*]

374 FROM S. C., RITUAL QUESTIONS: I. A votive Mass for the Most Holy Heart of Jesus, which, according to the decree of the Sacred Congregation of 28 June 1889, is permitted to be celebrated on Fridays, which are

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on the kalends of any month or follow them, must it be solemn or sung, or can it also be celebrated privately, as in the case of votive Masses, with the Gloria, the single prayer, and the Creed, according to the aforementioned decree? II. If the anniversary of the consecration of a diocesan bishop is impeded each year by a feast of the first or second class, is it permissible to anticipate or transfer the Mass and Commemoration of said anniversary in such a case, because otherwise they would always and each year be omitted? III. Must a solemn or sung Mass for the anniversary of the election or creation of the reigning Supreme Pontiff, or the consecration of a diocesan bishop, also be celebrated outside of the cathedral and collegiate churches, especially if more Masses are celebrated there? IV. There also exists in Hungary a custom, during the entire time of the Holy Advent, of celebrating Masses daily at dawn in honor of the Blessed Virgin Mary, commonly called "Rorate" Masses, which are frequented by the people. While the Sacred Congregation, on 1 December 1742 (in one document, of the Order of Carmelites, Discalced, of Poland), declared that these Masses could not be celebrated on Sundays and feasts of the first and second class, the same Sacred Congregation has, in several dioceses (e.g., the Archdiocese of Prague, on 17 November 1864, and also in the territory of the nullius archabbey of Saint Martin in the sacred mountain of Pannonia, on 25 May 1871), permitted the same Masses to be celebrated daily, except for the First Sunday of Advent and the Vigil of the Nativity of the Lord, solemnly sung; it is asked whether these decrees have the form of a special privilege, and if so, whether, given a large gathering of the people, this grace can be extended to other dioceses, especially to those larger churches, where at least two Masses are celebrated daily by priests, so that on days of the first and second class, two sung Masses are celebrated; one at dawn, the "Rorate" Mass, and the other for the current day or feast, which the sacred canons should apply for the benefit of the people? V. In regions of Hungary, many solemn Masses are celebrated before the exposed Blessed Sacrament, according to long-standing custom, in which, for some unknown reason, the kiss of peace is most often omitted; hence, it is asked whether this custom can be maintained, or rather, whether it should also be observed in this case, according to the rubrics? VI. The rubric of the Missal (Title VI, n. i) does not...

[*Latin ed. p. 375*]

From Sacred Rites 375, and other authorities and professors of the sacred liturgy, it is taught that the last Gospel, at the end of Mass, should be read in exactly the same manner as the first, that is, with the priest standing somewhat obliquely, or turned slightly to the left towards the people. However, since some, especially older priests, deny that this is the meaning of this rubric, the question is asked: must the last Gospel be read by the priest standing obliquely?

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Regarding the Office of Votive Devotion to the Immaculate Conception of the Blessed Virgin Mary, which in some dioceses of Hungary is still, by concession of Pope Benedict XIII of December 15, 1717, customarily recited with a double rite, it is asked whether it is permissible to celebrate a private Mass for the Dead on Sundays. The reason for the doubt is that the Office is indeed a double one, but it is a Votive Office.

Regarding the eighth doubt: If one privately recites a Votive Office on the days of Lent, the Four Times of the Year, or Vigils, may one celebrate a Mass on that day in the color violet? And if so, must one omit the commemoration of the Votive Office privately recited on that day?

Regarding the ninth doubt: The Commemoration of the Cross, which is said during the Paschal season, in place of the suffrage for the Saints, according to the Decree of the Sacred Congregation of April 29, 1887, in Emerita, is omitted in the Votive Office of the Passion; is the same omission to be made, by reason of the identity of the mystery, even in the Office of the Most Holy Eucharist?

Regarding the tenth doubt: Is the Roman Ritual permitted everywhere and in all functions, even if a proper diocesan Ritual, which in some places differs only slightly from the Roman Ritual, is used?

Regarding the eleventh doubt: The Roman Ritual leaves it to the minister administering Holy Communion whether or not to recite the antiphon "O Sacred Banquet," etc.; but it cannot be determined from the rubric whether the verses and the Prayer ("O God, who...") are also optional or entirely obligatory; and if affirmative for the second part, it is asked whether the blessing with the right hand and the formula: "And the blessing," etc., must always be given when Holy Communion is administered before Mass.

Regarding the twelfth doubt: Since it is prescribed by the Ceremonial of the Bishops that all, except for the Canons of the Cathedral Church, should bend the knee before the main altar, the question has arisen whether this genuflection must also be made in other public churches or chapels, where the Most Holy Sacrament is not reserved in the main altar?

[*Latin ed. p. 376*]

376 FROM THE SACRED CONGREGATION'S ADDITIONAL QUESTIONS ON RITES. Question I. Since, at times, in the year 1892, the feasts of the Most Sacred Heart of Jesus and of Saint John the Baptist coincide on the same day, and according to the Decree of the City and the World of June 28, 1889, in this case, the feast of the Most Sacred Heart must be transferred to the nearest day, June 25th, the question arises: how should the Second Vespers be arranged on the feast of Saint John the Baptist, and will the entire office pertain to the Most Sacred Heart, with the commemoration of the preceding Saint John the Baptist?

Question II. When the feast of the Annunciation of the Blessed Virgin

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Mary falls on a Feria (weekday), after the Third Sunday of Lent, to which feria the Office of the Holy Wounds of Our Lord Jesus Christ is assigned for some places, can this office be transferred to the following feria, which is Saturday, or must it truly be omitted?

Question III. In Hungary (and in many dioceses of Austria), the feast of Saint John of Capistrano, Confessor, was previously observed with a double rite on October 23rd, which is the day of his death; however, by the General Decree of the Sacred Congregation of the same date, August 19, 1890, by which the feast is extended to the entire Church, the date of March 28th is assigned to it, with only a semi-double rite. Now, various doubts have arisen among the compilers of diocesan calendars, and therefore, the following is asked: 1. Is it permissible in Hungary to celebrate the feast of Saint John of Capistrano with a double rite on October 23rd, as previously, or is it rather more fitting and laudable to celebrate it on the day on which it is observed in the universal Church, as was done with the Offices of Saints Cyril and Methodius, and of Saint Camillus de Lellis, which, before being extended to the entire Catholic world, were recited on March 14th and 16th, respectively? 2. What should be done in those places or churches for which Saint John of Capistrano is the Patron or Title, where his feast has hitherto been celebrated on October 23rd with a double rite of the first class, with an octave, and perhaps even with greater solemnity?

Question IV. In the Archdioceses of Strigonium and in some other dioceses of Hungary, the Office of the Holy Relics was previously recited with a double rite on November 26th, which are the relics preserved in the Metropolitan, or Cathedral, and in other churches throughout the diocese. Now, that day is no longer free for this purpose, beginning with the following year.

[*Latin ed. p. 377*]

FROM THE SACRED CONGREGATION OF RITES, 377, but concerning the proper observance of St. Sylvester, the following questions are raised: 1. Whether the Office of the Holy Relics, which is double, ought to be transferred to the feast of St. Sylvester, also double; and if so, 2. whether another day can be assigned to the Office of the Holy Relics, which is still free in the Calendar, for example, October 25th, as is done in other dioceses; and if again affirmative, 3. whether for the feast of the Holy Relics, the fourth Sunday of October can be assigned, as is the case in the Breviary and Missal of Rome for some places, even if another double feast occurs on that day, in which case, according to the rubrics, would this double feast be simplified to a commemoration before the Sunday? Question V. If the feast of the Patronage of the Blessed Virgin Mary, on the third of November, is fixed, and is hindered by the Octave of All Saints or another feast of higher rank, can it be transferred without a special indult, or rather, ought it to be omitted according to other decrees? Question VI. Since the

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Most Holy Congregation, by its most recent decree of May 17, 1890, has prohibited in several dioceses the use of any rite other than that prescribed in the Roman Ritual for blessing water on the feast of the Epiphany of the Lord, it is asked whether this decree applies to all dioceses, so that in no way may the use of that very long formula, proper to the Greek Church, be permitted; and if so, whether this ancient formula must be completely removed from the Rituals? And the same Sacred Congregation, signed at the Vatican, after a careful deliberation in the Ordinary Assemblies, and after a prior vote of another of the Masters of the Apostolic Ceremonies, revealed in writing, and after a discussion, considered it prudent to write to the Cardinal Prefect of the same Congregation, and in this matter, the one who presents the following: Regarding Question I. As to the first part, negatively; as to the second, let a decree be issued on May 20, 1890, in Monte Polito. Regarding II. It should be transferred to the first subsequent day that is not impeded. Regarding III. Negatively. Regarding IV. Affirmative as to the first part; as to the second, affirmative by privilege, except for the First Sunday of Advent, the Vigil of the Nativity of the Lord, the feast of the Immaculate Conception and its Octave, on those days when the Office is celebrated within the Octave of the same, and also on Feria IV of the four seasons, and also on the feast of the Purification. Regarding V. In this case, the rubrics should be observed.

[*Latin ed. p. 378*]

378 FROM THE SACRED CONGREGATION OF RITUAL, Regarding VI. Affirmative. Regarding VII. Affirmative, and let a Decree be issued in Bergamo. November 24, 1691. Regarding VIII. Affirmative, regarding the first part: Negative regarding the second. Regarding IX and X. Affirmative. Regarding XI. The versicles and the prayer "Deus qui nobis," are of precept: but the blessing is always to be given, except in one case, when it is given immediately before or after the Mass for the Dead, under the formula "Benedictionem Dei, etc." Regarding XII. Affirmative, but only in the actual performance of the function. Regarding the additional doubts. Regarding 1. The Vespers will be those of the Nativity of Saint John the Baptist, with the commemoration of the following, according to the Decree issued on one of the days of Doubts, September 5, 1891. Regarding 2. Affirmative, if Saturday is a day of rest; otherwise, on another day within the Forty Days, which, if it is not possible, should be omitted. Regarding 3. Regarding 1, regarding the first part, Affirmative; regarding the second, provision is made in the first. Regarding 2. Provision is made in the preceding. Regarding 4. Affirmative regarding the first. Regarding the second, the Office for the Relics will be deferred to the first subsequent free day, according to the rubrics. If this is not possible, the Sacred Congregation grants permission for it to be anticipated to October 25th. Regarding 5. Negative regarding the first, Affirmative regarding the second. Regarding

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6. Affirmative, and it should be noted in the Ritual that the blessing is abrogated until a new edition is printed, from which it should be removed. And thus it was written, declared, and ordered to be observed on August 30, 1892. * CAL Card. ALOISI-MASELLA, Prefect. VINCENTIUS NUSSI, Secretary. MAIORICA. Doubt regarding the rite by which the feasts of the patrons are to be celebrated. The Most Reverend Lord Bishop of Maiorica, in the Balearic Islands, has humbly submitted the following doubt to the Sacred Congregation of Rites for a suitable solution, regarding the current ceremonies of the same Church Cathedral:

[*Latin ed. p. 379*]

379t E X S . C . RITUUM: By Decree of the Sacred Congregation of Rites, dated May 11, 1867, in Hispaniae, many feasts were abolished, and concerning the Patrons of places, it was established: "that in each Diocese only one principal Patron should be designated by the Holy See, observing the law of Sacred Orders and abstaining from servile works," which has been faithfully observed in this Diocese, and by Decree of the Holy See on June 18, 1861, the Most Blessed Virgin Mary, in the Mystery of her Immaculate Conception, was designated as the Patron of the entire Diocese; but the people of all Dioceses have, until now, piously and commendably observed the feasts of their particular Patrons as before, and the question arises now as to what should be done in the Liturgy, because at the end of the aforementioned Decree it is read: "His Holiness did not intend to diminish the veneration of the Saints, nor the salutary penance of the Christian faithful; therefore, His Holiness ordered that the solemnities, Offices, and Masses of the Saints, both in the abolished feasts, and in their Vigils, be retained, and celebrated as before in every Church." Doubting whether the Decree speaks only of other feasts of the universal Church that have been abolished, or also of these Patrons, the question is asked: Are the feasts of these Patrons to be celebrated with the double rite of the first class, with an *octava*, as before? And if the answer is negative: with what rite should they be celebrated, when some, such as Saint Margaret, Virgin and Martyr, are celebrated in this Diocese with a simple rite? Furthermore, the Sacred Congregation of Rites, after mature deliberation, in response to the report of the undersigned Secretary, and also to the earnest opinion of another of the Masters of the Sacred Ceremonies, decided that the aforementioned question should be answered in the affirmative, and so it wrote and ordered it to be observed on November 25, 1892.

* CAL Card. ALOISI-MASELLA, Prefect.

VINCENTIUS NUSSI, Secretary.

[*Latin ed. p. 380*]

380 FROM THE SACRED CONGREGATION OF RITES. Decree concerning the beatification, or declaration of martyrdom, of the Venerable Ser-

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vants of God, Peter Martyr Sanz, Bishop of Mauricastren, and Apostolic Vicar of the province of Fo-Kien in the Kingdom of China; Francis Serrano, elected Bishop of Tipasita and Apostolic Vicar of the same province of Fo-Kien; Joachim Royo, John Alcober, and Francis Diaz, priests and missionaries of the Order of Preachers, who were killed by idolatrous Chinese in hatred of the Christian religion. CONCERNING THE DOUBT: Whether, given the decree of declaration of martyrdom and its cause, issued by the Blessed Pope Pius VI, and another concerning the signs of martyrdom illustrating and confirming it, approved by the Most Holy Pope Leo XIII, it is permissible to proceed safely to the solemn beatification of the Venerable Servants of God? The wondrous power of that fire, kindled by Christ in the earth, by which what is impossible with men is possible with God, and which shines forth most brightly in the martyrs, after the passage of half a century, shone forth gloriously in the Venerable Servants of God, Peter Martyr Sanz, Francis Serrano, Joachim Royo, John Alcober, and Francis Diaz, members of the Order of Preachers. Who, having endured the most grievous torments and death at the hands of the idolatrous Chinese, demonstrated with clear fortitude that, filled with immortality, they desired nothing more than to pour out their mortal lives for Christ, to attain with Him the most blessed, eternal life. After their blessed death, the cause of the beatification of these individuals was begun before the Sacred Congregation of Rites, and after due examination of the testimonies, the Blessed Pope Pius VI declared on the 15th of June, in the year 1777, that the Venerable Servants of God were martyrs. Subsequently, the Most Holy Pope Leo XIII issued a decree on the 9th of November of the past year concerning the miracles or signs confirming their martyrdom. With these matters completed, it remained to discuss whether, with the aforementioned decrees in effect, the Venerable Servants of God could safely be enrolled among the Blessed. This doubt was proposed by the Most Reverend Cardinal Caietano Aloisi Masella, Prefect of the Sacred Congregation of Rites, in place of the Most Reverend Cardinal Thomas Zigliara, Relator of the Cause, in a general Congregation held in the Vatican buildings before His Holiness this year, on the 13th of January; the Most Reverend Cardinals.

[*Latin ed. p. 381*]

From the Sacred Congregation of Rites, number 381, and the Consultor Fathers, a favorable response was given. The Most Blessed Father, however, postponed expressing his opinion on this matter, so that he might implore the heavenly light through prayer. But on this day, when the Author of our salvation was visited in the cradle by the Magi, His Holiness, having offered the unbloody Sacrifice, and seated upon the pontifical throne in this Vatican hall, summoned the aforementioned Cardinal Caietan Aloisi-Masella, in place of and in the stead of the aforementioned Cardinal Thomas Zigliara, together with the Reverend Father Augustine Caprara,

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Promoter of the Holy Faith, and myself, the undersigned Secretary, and, with them present, solemnly decreed: "That it is safe to proceed to the solemn beatification of these servants of God." He ordered that this decree be made public and recorded in the acts of the Sacred Congregation of Rites, and that Apostolic Letters, in the form of a Brief, for the beatification, be issued whenever it is to be celebrated, on the eighth day before the Kalends of January, in the year 1893. Cardinal Aloisi-Masella, Prefect of the Sacred Roman Congregation. L. * S. Vincent Nussi, Secretary of the Sacred Roman Congregation.

Decree of beatification and canonization of the Venerable Servant of God, Leopold a Gaichis, a priest, professed of the Order of Minor Friars of Saint Francis, reformed.

ON THE QUESTION: Whether, with the approval of virtues and two miracles, it is safe to proceed to the solemn beatification of the Venerable Servant of God?

The divine light, which illuminates every man coming into this world, in a wondrous manner, preceded the Venerable Leopold a Gaichis, who followed it faithfully both in the world and in the monastery, throughout a long life of eighty-three years, truly walking as a son of light in all justice, striving to reach the holy mountain of God. His zeal for religion, piety, and all virtues, and the ardor with which he burned for the salvation of souls, especially in the region of Umbria, were so great that he was held as a mirror of Christian and religious perfection, and as an outstanding disciple of Christ and of His.

[*Latin ed. p. 382*]

382. By the sacred ministry of the rites, he was assisted by helpers. Moreover, from the year 1815, in which he passed over to the blessed life, the fame of this holiness flourished more and more each day, even because of miracles which were said to have been wrought by his intercession through God; therefore, the cause for his Beatification and Canonization began to be considered before the Sacred Congregation of Rites, and after due examination of the records from the ordinary and apostolic processes, the Most Blessed Pope Pius IX solemnly decreed the heroic virtues of the Venerable Leopold on the Ides of February in the year 1855. Then, by another decree issued on the Kalends of September of the preceding year, the Most Holy Pope Leo XIII solemnly declared that two miracles, after his death, had been wrought by God through him. It remained to inquire whether it could be safely conceded to the Venerable Servant of God the honors of the Blessed in the Church. This doubt was proposed by the Most Reverend Cardinal Caietano Aloisi-Masella, Prefect of the Sacred Congregation of Rites, in place of and on behalf of the Most Reverend Cardinal Charles Laurenzi, Relator of the Cause, in a general meeting of the Sacred Congregation of Rites before the same Most Holy Pope, on the tenth day before the

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Kalends of December of the preceding year, in the halls of the Vatican; and the Most Reverend Cardinals and Fathers Consultors gave their affirmative vote. However, the Most Blessed Father postponed expressing his opinion on a matter of such importance, seeking a greater grace of heavenly light. But today, on this solemnity in which the Only Begotten Son of God was revealed to the nations, with the spotless Victim offered, and seated on the pontifical throne in this Vatican hall, he called to himself the aforementioned Most Reverend Cardinal Aloisi-Masella, also in place of and on behalf of the aforementioned Cardinal Charles Laurenzi, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and, in their presence, solemnly decreed: "It can safely proceed to the solemn Beatification of the Venerable Leopold of Gaich." This decree was ordered to be promulgated and recorded in the acts of the Sacred Congregation of Rites, and Apostolic Letters in the form of a Brief for the Beatification to be celebrated at any time were ordered to be issued on the eighth day before the Kalends of January in the year 1893.

CAL. CARD. ALOISI MASELLA, Prefect of the Sacred Congregation of Rites.

L. S. VINCENTIUS NUSSI, Secretary of the Sacred Congregation of Rites.

[*Latin ed. p. 383*]

FROM THE SACRED CONGREGATION OF RITES, 383, INDIA, or GOA. Decree concerning the beatification, or declaration of martyrdom, of the venerable Servants of God, Rodulphus of Aquaviva, Alphonsus Paceco, Anthony Francis, Peter Berno, priests, and Francis Arsnea, a temporary coadjutor from the Society of Jesus, who were killed by idolaters for the Catholic faith. The question is: Given that the decree declaring their martyrdom stands, and that its cause was initiated by the Blessed Pope Benedict XIV, and furthermore, that certain signs illustrating and confirming the martyrdom itself have been approved by the Most Holy Lord Pope Leo XIII, can the solemn beatification of these venerable Servants of God proceed safely? If it is a cause for rejoicing, as Saint Augustine urges, on the days of the holy martyrs, as if it were a victory of Jesus Christ, because in them He conquered who lived in them; may it also be permissible to commemorate the venerable Servants of God, Rodulphus of Aquaviva, Alphonsus Paceco, Anthony Francis, Peter Berno, and Francis Arsnea of the Society of Jesus. Who, in the Salsetana peninsula, while being horribly murdered by enemies of the Christian name, sustained the holy faith which Christ lived in them, with such constancy of mind and joy of spirit, that it shone splendidly within them and triumphed. Concerning the martyrdom of these venerable Servants of God, which occurred in the latter part of the sixteenth century, the Blessed Pope Benedict XIV issued a decree on the thirteenth of September in the year 1741. Recently, however,

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the Most Holy Lord Pope Leo XIII decreed, on the ninth of November of the past year, that certain miracles, or signs confirming their martyrdom, do indeed exist. Finally, in order to complete the legitimate series of acts, in the general assembly of the Sacred Congregation of Rites held this year on the thirteenth of January, in the Vatican buildings before His Holiness, the question was proposed by the Reverend Cardinal Camillo Mazzella, the Relator of the Cause, concerning the safe granting of the solemn honors of the blessed to these same venerable Servants of God; and then the Reverend Cardinals and the Consultor Fathers gave their affirmative vote. Nevertheless, the Most Blessed Father did not immediately pronounce his final judgment on this matter, but considered it necessary to implore the grace of divine assistance. And on this very day, on which the Child Jesus is adored by the Magi, His Holiness, the Lamb of peace, sitting on the pontifical throne in this Vatican hall, summoned the Reverend Cardinals Caietan Aloisi-Masella, Prefect of the Sacred Congregation of Rites, and the aforementioned Camillo Mazzella, together with the Reverend Father Augustine Caprara, Promoter of the Holy Faith, and myself, the undersigned Secretary, and in their presence, solemnly decreed: "That the solemn beatification of these venerable Servants of God can proceed safely."

[*Latin ed. p. 384*]

384 From the Sacred Congregation of Rites, it was decreed that this document should be made public and recorded in the acts of the Sacred Congregation of Rites, and that Apostolic Letters in the form of a Brief for the celebration of the Beatification should be issued whenever necessary, on the eighth day before the Kalends of January, in the year 1893. C. Card. ALOISI-MASELLA, Prefect of the Sacred Roman Congregation. L. "S. VINCENTIUS NUSSI, Secretary of the Sacred Roman Congregation."

Regarding a Doubt: Concerning whether a Commission for the resumption of the Cause should be appointed in this case and for the purpose of which it is spoken.

While the Reverend Father Philip Rolletta, a priest of the Congregation of the Poor Servants of Mary, Schools of Piar, and Postulator of the aforementioned Cause for the Canonization of the Blessed Pompilia Maria Pirrotti, was present, and after the Most Eminent and Reverend Lord Cardinal Lucido Maria Parocchi, of the same Cause, as Promoter or Relator in the Ordinary Session of the Sacred Congregation of Rites, had convened a meeting at the Vatican, the following doubt was proposed: "Whether a Commission for the resumption of the Cause should be appointed in this case and for the purpose of which it is spoken."

The Most Eminent and Reverend Fathers, Prefects of the Sacred Rites, having carefully considered all matters, after hearing the Reverend Father Augustine Caprara, Promoter of the Faith, judged it fitting to respond: "Af-

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firmatively, if it pleases the Most Holy [Father]." On August 30, 1892.

These matters, having been signed by me, the Cardinal Prefect of the Sacred Congregation of Rites, were presented to His Holiness, our Most Holy Father Pope Leo XIII, who, considering the judgment of the Sacred Congregation itself, deigned to sign with his own hand the Commission for the resumption of the Cause of the aforementioned Blessed Pompilia Maria Pirrotti. On September 4th of the same year.

C. CARD. ALOISI-MASELLA, Prefect of the Sacred Roman Congregation.

L. "S. VINCENTIUS NUSSI, Secretary of the Sacred Roman Congregation."

[*Latin ed. p. 385*]

385 LETTER from His Holiness Pope Leo XIII to Francis Picard, superior of the Augustinian Fathers of the Assumption, concerning a pilgrimage to Jerusalem. It is very pleasing to us that you write of undertaking, according to the custom and practice of past years, a pilgrimage to Jerusalem under your leadership. And we, your beloved Son, and all those who will accompany you, are commended to all blessings and the care of paternal charity, especially since the gathering of pilgrims appears to be greater in number and dignity than in other years. We also deem it laudable and opportune that, among the most holy monuments of Palestine, the Eucharistic celebrations are to be held this year. Therefore, we are confident that this pilgrimage, undertaken for the cause of expiation and religion, as is customary, will be made more fruitful by divine grace. For this reason, since we ourselves desire to participate in this undertaking in some way, we have appointed our beloved Son, Benedict Mary Langenieux, S.R.E. priest, Cardinal, Archbishop of Rheims, to represent us at the Eucharistic celebrations. Furthermore, moved by your prayers, and also by the desire to foster and increase piety, we grant to all those who, under your leadership, are about to make a pilgrimage to the holy places of Palestine, the same privileges and indulgences that we granted in a letter dated March 6, 1882, and which we renewed the following year, with the proviso that the same conditions be observed. We also confirm the faculties and privileges granted to you through the aforementioned letters, as well as the authority to choose, if circumstances require it, a suitable priest who, using these faculties, may serve as your designated vicar. May the benign will of God be with you, and may the work of piety, destined for the common good, happily succeed. As a pledge of this divine grace, and as a witness of our benevolence, we impart to you and to all the members of the pilgrimage our Apostolic blessing, earnestly in the Lord. Given at Rome, near St. Peter, on the first day of February, in the fifteenth year of our pontificate. LEO XIII, POPE.

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Acts, Vol. XXV, page 25.

[*Latin ed. p. 386*]

386 FROM THE CONSISTORY ACTS Concerning the Consistory held on January 16, 1893. On the aforementioned day, the Most Holy Father created several Cardinals, whose names are listed at the end of the following address: ADDRESS Venerable Brothers, Divine Providence, the guardian of life and the director of human events, has benevolently arranged that, after approximately five years since the beginning of Our priestly life, we might celebrate the fiftieth anniversary of Our episcopal consecration, a milestone of great public joy. The heart feels the force of this blessing, Venerable Brothers; and therefore, We have proclaimed in this most august assembly the supreme goodness of God, the protector, who has granted Us so much of the use of this mortal life, with unimpaired health. And indeed, it is a greater, and more pleasing to contemplate, that something bestowed upon Us privately seems to bear fruit for the common good. For, on this occasion, about which We are speaking, men are moved, and generally, they look upon this Apostolic See with a more favorable will and greater devotion, interpreting the advanced age of the Pontiff as a certain pledge of heavenly patronage, not without reason. Thus, a matter of little importance, bestowed privately, is, by God's will, transformed into an encouragement for the faith and the religion: and this is, indeed, a most excellent opportunity, if one considers the circumstances of the times. For, indeed, in such a great number of enemies, who despise the Christian faith and institutions with equal aversion, it is now given with the greatest and daily effort to ensure that the Roman Pontificate is viewed with disfavor and suspicion, and that the multitude is completely misled by a pernicious error, turning its mind away from the Church. Therefore, raising our eyes to heaven, our sorrows are alleviated by the thought of divine counsel and piety, with a pleasant and timely consolation; indeed, even the spirit is strengthened to fight and persevere, as long as it may be necessary. Now, as the auspicious beginnings of the year allow us to accomplish greater things, our first intention was to decide upon the canonization of the blessed.

[*Latin ed. p. 387*]

FROM THE CONSISTORY ACTS: 387. Honors are bestowed upon certain venerable servants of God, from whom the Christian people may suitably seek examples of virtue and heavenly patronage. Furthermore, we have taken steps to supplement the most distinguished College of yours, Venerable Brothers. Indeed, we have decreed to create several outstanding men as Cardinals, who, through their merits in the service of Christ, and through their diligence, integrity, and skill in the exercise of episcopal duties, legations, or the administration of urban affairs, have demonstrated their fidelity to the Apostolic See. These are: Joseph Guarino, Archbishop

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of Messina; Marius Mocenni, titular Archbishop of Aeliopolis, Assistant in our Public Affairs; Amilcar Malagola, Archbishop of Firman; Angel Di Pietro, titular Archbishop of Nazianzus, Apostolic Nuncio in Spain; Benedict Sanz y Fores, Archbishop of Seville; William Meignan, Archbishop of Tours; Benedict Leo Thomas, Archbishop of Rouen; Philip Krementz, Archbishop of Cologne; Ignatius Persico, titular Archbishop of Tamia thensis, Secretary for the propagation of the Christian name in the Sacred Council; Aloysius Galimberti, titular Archbishop of Nicaea, Apostolic Nuncio in Austria-Hungary; Michael Logue, Archbishop of Armagh, Primate of Ireland; Claudius Franciscus Vaszary, Archbishop of Gran, Primate of Hungary; Herbert Vaughan, Archbishop of Westminster; George Kopp, Bishop of Breslau. What do you think? Therefore, with the authority of Almighty God, and of the holy Apostles Peter and Paul, we create and publicly proclaim the following as Cardinals of the Holy Roman Church: Joseph Guarino, Marius Mocenni, Amilcar Malagola, Angel Di Pietro, Benedict Sanz y Fores, William Meignan, Benedict Leo Thomas, Philip Krementz, Ignatius Persico, Aloysius Galimberti, Michael Logue, Claudius Franciscus Vaszary, Herbert Vaughan, George Kopp.

[*Latin ed. p. 388*]

388 FROM THE CONSISTORY ACTS: Furthermore, We create two other Cardinals of the Holy Roman Church, whom We reserve in Our hearts, to be made known at Our discretion. With the necessary and appropriate dispensations, derogations, and clauses. In the Name of the Father, and of the Son, and of the Holy Spirit. Amen. Having completed this, the Most Holy Father proposed the following sees: The Cathedral Church of Tusculan, vacant due to the death of the Most Reverend Edward, while he lived, Cardinal-Bishop of Howard, the last of those Bishops to have died outside the Roman Curia; which is desired by Our Eminence and Most Reverend Lord Thomas, holding the title of Saint Praxedes, of the same Holy Roman Church, Cardinal-Priest Zigliara. The Metropolitan Church of Bononiensis, vacant due to the death of the distinguished Most Reverend Francis, while he lived, Cardinal-Priest Battaglini, the last of those Bishops to have died outside the Roman Curia, favored by Our Eminence and Most Reverend Lord Seraphinus, holding the title of Saint Jerome of Illyria, of the same Holy Roman Church, Cardinal-Priest Vannutelli. The Metropolitan Churches of Tranensi and Barolensis, equally principal, united together, along with the Archiepiscopal title of Nazareno, and the Episcopal Church of Vigiliensi, to be perpetually administered by the Archbishop of Tranensi for the time being, vacant due to the death of the Blessed Most Reverend Joseph de Bianchi Dottula, the last of those Archbishops and respectively Administrators, to have died outside the Roman Curia, favored by the Reverend Father Dominic Marinangeli, Bishop of Fodiana. The Metropolitan Church of Aquilana, vacant due to the death of the Blessed Most Reverend

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August Antonini Vicentini, the last of those Archpriests, to have died outside the Roman Curia, favored by the Reverend Father Francis Paul Carrano, Bishop of Aesernia and Venafrana. The Metropolitan Churches of Acheruntina and Matherana, perpetually and canonically united with each other, vacant due to the death of the Blessed Most Reverend Francis Mary Imparati, the last of those Archbishops, to have died outside the Roman Curia, favored by the Reverend Father Raphael di Nonno, of the Congregation of the Most Holy Redeemer, and Pastor of Thermara. The Metropolitan Church of Calaritana, vacant due to the death of the Blessed Most Reverend Vincent Gregory Berchialla, the last of those Archpriests, to have died outside the Roman Curia, favored by the Reverend Father Paul Joseph Mary Serci Serra, Archbishop of Arborea. The Metropolitan Church of Arborea, vacant due to the translation of the Reverend Father Paul Joseph Serci Serra to the See of Calaritana, favored by the Reverend Father Francis Zunnui Casula, Bishop of Uxello and Terralba. The Metropolitan Church of Olomucensis, vacant due to the death of the esteemed Frederick, while he lived, Cardinal-Priest from the Landgraviates of Fürstenberg, the last of those Archbishops, to have died outside the Roman Curia, favored by the Reverend Doctor Theodor Kohn, Priest of Olomouc, of the same archdiocese, and by the Metropolitan Chapter and Canons, elected as Archbishop. He, born of legitimate, Catholic, and honest parents in Breznice in Moravia, having surpassed his forty-seventh year of age, and having previously been awarded a doctorate in sacred theology, was appointed Director of the Olomouc Chancery, and is established as a professor of fundamental theology and canon law at the illustrious Caesaro-Royal Faculty of Olomouc. The Cathedral Churches of Viterbiana and Tuscanen, perpetually and canonically united with each other, vacant due to the death of the Blessed Most Reverend John Baptist Paolucci, the last of those Bishops, to have died outside the Roman Curia, favored by the Reverend Father Eugene Clari, Bishop of Amori.

[*Latin ed. p. 389*]

FROM THE CONSISTORY ACTS 389. The Cathedral Church of Fesula is vacant, due to the translation of the Reverend Father Benedict Tommasi to the Metropolitan See of Siena, with the favor of the Reverend Father David Camilli, Bishop of Apuana. The Cathedral Churches of Ampurias and Templum, perpetually and canonically united, are vacant, due to the death of the Reverend Father Paul Pinna, the last Bishop of those sees, who died outside the Roman Curia, with the favor of the Reverend Father Anthony Mary Contini, Bishop of Oleastris. The Cathedral Church of Ameria is vacant, due to the translation of the Reverend Father Eugene Clari to the Sees of Viterbo and Toscanella, which are perpetually united, with the favor of the Reverend Father Vincent Joseph Veneri, a priest of the Diocese of Nursia. He, born of legitimate, Catholic, and honorable parents in Nursia, and

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having surpassed the fiftieth year of his age, was joined to the Alumnis Seminary of Pius in Rome, where he received the doctorate in both Canon and Theological Law. He was appointed Rector of the diocesan seminary, and there he was established as a professor of philosophy and dogmatic theology. He was also appointed a Canon Theologian of the Cathedral Church of Nursia. He was added to the list of pro-Synodal examiners, and the General Vicar for spiritual matters of that city and diocese has renounced his office. The Cathedral Church of Apuana is vacant, due to the translation of the Reverend Father David Camilli to the See of Fesula, with the express favor of the Reverend Father Alphonsus Mistrangelo, a priest of Savona, and a member of the Order of the Piarists. He, born of legitimate, Catholic, and honorable parents in Savona, and having surpassed the fortieth year of his age, has for many years served as Rector of the religious house of Uvada, and continues to do so. The Cathedral Church of Fulgata is vacant, due to the grievous death of the Reverend Father Frederick Fredericki, the last Bishop of that see, who was killed outside the Roman Curia, with the favor of the Reverend Father Albini-Angeli Pardini, a priest of Rome, and a member of the Regular Canons of the Lateran of St. Peter in Vincula. He, born of legitimate, Catholic, and honorable parents, and having reached the age of forty-four, has been appointed to the dignity of Abbot, having previously served as General Visitor and General Procurator in his Order. He has given lectures on moral theology, canon law, and sacred liturgy to the young men of his Order, and is attached to the Academy of Catholic Religion and the Pontifical Commission for the authentic edition of the Collection of Decretals of the Sacred Congregation for the Ritus. The Cathedral Church of Thermara is vacant, due to the translation of the Reverend Father Raphael di Nonno, from the Congregation of the Most Holy Redeemer, to the Metropolitan Sees of Acerenza and Mathera, which are united, with the favor of the Reverend Father Angel Balzano, a priest of the Diocese of Trivento. He, born of legitimate, Catholic, and honorable parents in the town of Castrisangri, in the Diocese of Trivento, and having surpassed the sixty-third year of his age, has renounced his office as Archpriest-Parish Priest of St. Mary Assumed into Heaven in his native town, and as Vicarious Foraneus and Pro-Synodal Examiner. The Cathedral Church of Vicenza is vacant, due to the death of the Reverend Father Anthony de Pol, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Anthony Ferruglio, a priest of the Archdiocese of Udine. He, born of legitimate, Catholic, and honorable parents in the place commonly called Feletto Umberto, in the Archdiocesan territory of Udine, and having surpassed the fifty-first year of his age, has obtained a doctorate in philosophy, Hebrew literature, theology, and canon law in Rome, and is now teaching moral theology and pastoral theology at the Seminary of

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Udine.

[*Latin ed. p. 390*]

390 FROM CONSISTORY ACTS. The predecessor was appointed, and he also served as the general vicarious in spiritual matters and as the fiscal promoter of that court. The Cathedral Church of Concordia was vacant, due to the death of the Most Reverend Dominic Pius of Ross, the last bishop of that diocese, who died outside the Roman court, with the favor of the Reverend Peter Zamburlini, a priest of the diocese of Padua. He was born of legitimate, Catholic, and honorable parents in the parish of Saint Michael the Archangel in Balneolis, in the diocese of Padua, and, having reached the sixty-first year of his age, he had previously received the doctoral degree in sacred theology, and was appointed as the general vicarious in spiritual matters of that prelate, and was also added among the pro-synodal delegates, and among the synodal delegates, and among the deputies to the board for the administration of the goods of the seminary. The Cathedral Church of Salta, in the jurisdiction of Argentina in South America, was vacant, due to the death of the Most Reverend Bonaventure Rizo, the last bishop of that diocese, who died outside the Roman court, with the favor of the Reverend Father Paul Padilla, titular bishop of Pentacomia. The Church of Saltillo in the jurisdiction of Mexico in North America was promoted to the rank of a cathedral by His Apostolic Letters, dated July 9, 1891, from the archdioceses of Durango and Linares, and was vacant from its original erection; with the favor of the Reverend James Garza Zambrano, a priest of the archdiocese of Linares. He was born of legitimate, Catholic, and honorable parents, and having surpassed his fifty-fifth year of age, he was chosen as the episcopal chancellor, and he has ruled the diocese more than once as the vicarious of the Bishop of Linares. The Church of Tepico in the jurisdiction of Mexico in North America was separated from the archdiocese of Guadalajara by His Apostolic Letters, dated July 9, 1891, and was elevated to the rank of a cathedral, and was vacant from its new erection; with the favor of the Reverend Ignatius Diaz, a priest of Guadalajara. He was born of legitimate, Catholic, and honorable parents in Guadalajara, and having reached the fortieth year of his age, he had previously received the doctoral degree in sacred theology, and having served as a parish priest in the church of Saint Peter near the city of Guadalajara, and in another church of the Blessed Mary of Guadalupe, located within the same city, he has renounced the prebend in the Metropolitan Church. The Church of Tehuantepec in the jurisdiction of Mexico in North America was separated from the dioceses of Antequera and Vera Cruz by His Apostolic Letters, dated July 9, 1891, and was honored with the title of a cathedral, and was vacant from its new erection; with the favor of the Reverend Joseph Mora, a priest of the diocese of Zamora in North America. He was born of legitimate, Catholic, and honorable parents in the town commonly called Paiacuaran, in the

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diocese of Zamora, in North America, and having surpassed his thirty-eighth year of age, he obtained the doctoral degree in sacred theology and canon law in Rome, and the license in philosophy. The titular Episcopal Church of Epiphania, under the Archbishop of Anazarbus, was vacant, due to the death of the Most Reverend Lucian Saracani, the last bishop of that diocese, who died outside the Roman court, with the favor of the Reverend Fortunatus Vinelli, a priest of Genoa. He was also appointed as an auxiliary to the Reverend Father Thomas Reggio, the archpriest of Genoa, for the administration of the newly established diocese of Clavaris. The Reverend Fortunatus Vinelli was born of legitimate, Catholic, and honorable parents in Saint Margaret Ligure, in the archdiocese of Genoa, and having reached the sixty-first year of his age, he was assigned to the Congregation for Missions located outside the city of Genoa, and was also a moderator.

[*Latin ed. p. 391*]

From the Consistorial Acts, 391, a Canon, addicted to fleeing from the poverty or infirmity of priests, and formerly a member of the Basilica of Cariniana in the city of Genoa, was appointed to the titular Episcopal Church of Thermopylae, vacant under the Archbishop of Larissa, through the translation to the Archiepiscopal See of Angolen, and the Reverend Father Anthony Dias Ferreira, with the favor of the Reverend Benedict delia Camera, a priest of the archdiocese of Benevento; who was also appointed as an Auxiliary to the Reverend Aloysius Sodo, Bishop of Thelesi, or Cerreta. The Reverend Benedict delia Camera, born of legitimate, Catholic, and honorable parents in the city of Murgantia, Morcom, of the archdiocese of Benevento, and having reached the fifth year beyond his fiftieth year of age, was appointed by the Bishop of Thelesi, or Cerreta, as a General Vicar. The titular Episcopal Church of Rosalien, vacant under the Patriarch of Constantinople, through the death of the late Reverend Father Andrea Chinchón, the last Bishop of that See who died outside the Roman Curia, with the favor of the Reverend Father John Iung, a priest of Vacii; who was also appointed as an Auxiliary to the Reverend Constantine Schuster, Bishop of Vacii. The Reverend Father John Iung, born of legitimate, Catholic, and honorable parents in Vacii, and having surpassed his fifty-first year of age, was numbered among the Chamberlains of His Holiness, made an Abbot of the Blessed Virgin Mary of Magyorod, and is currently appointed as the Penitentiary of the Cathedral of Vacii. The titular Episcopal Church of Carrhen, vacant under the Archbishop of Edessa, through the translation to the Metropolitan See of Vienna in Austria, in honor of Saint Anthony of Saint Mary of the Angels, of the Sacred Roman Empire, with the favor of the Reverend Father Ferdinand Cselka, a priest of the archdiocese of Strigonia. He was born of legitimate, Catholic, and honorable parents in Vámos-Mihola, County of Hont, in Hungary, Vámos-Mihola, of the archdiocese of Strigonia, and

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having reached his fifty-ninth year of age, he was appointed as the Prefect of the Church of the Holy Trinity of Superior Waters in Budapest, also known as Felhéwiz, and as a Canon of the distinguished Collegiate Church of Saint Martin in Pressburg, was added among the closest Chamberlains of His Holiness, and is appointed as the General Spiritual Vicar for the city of Budapest. The Metropolitan Churches of Trani and Barola, together with the Archiepiscopal Title of Nazareth, and the Episcopal Church of Vigiliensi, are to be perpetually administered by the Archbishop for the time being of Trani, vacant through the death of the late Reverend Father Joseph de Bianchi Dottula, the last Archbishop and, respectively, administrator of those Sees who died outside the Roman Curia, with the favor of the Reverend Father Dominic Marinangeli, Bishop of Fodiana. The Cathedral Church of Ambianes, vacant through the death of the late Reverend Father John Baptist Mary Simeon Jacquenet, the last Bishop of that See, who died outside the Roman Curia, with the favor of the Reverend Father Renatus Franciscus Renou, a priest of the archdiocese of Tours, for the nomination of the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. Renatus Franciscus Renou, born of legitimate, Catholic, and honorable parents in the place commonly called Bourgueil of the archdiocese of Tours, and having reached his eighth year beyond his fortieth year of age, having exercised the care of souls in many places, and for many years, either as a Vicar or as a Parish Priest, has hitherto performed the duties of a Curate in the place commonly called Amboise of the same archdiocese of Tours.

[*Latin ed. p. 392*]

392 FROM THE CONSISTORY ACTS: The titular episcopal see of Tanen is vacant, under the Archbishop of Damiata, due to the death of the Most Reverend Francis Sniegon, the last bishop of that see to die outside the Roman curia. The Reverend Joseph Marcelio, a priest of the archdiocese of Zadar, was appointed as administrator apostolic for that diocese, and also for the diocese of Kotor. The Reverend Joseph Marcelio, born in the town of "Slavice Preko" in the archdiocese of Zadar, and having reached the age of forty-six, having previously been awarded a doctorate in sacred theology, served as the predecessor in the Lyceum of Zadar, teaching biblical studies of the New Testament, ecclesiastical history, and canon law. He also served as an examiner and judge for the synod in the ecclesiastical forum, and as rector of the Central Theological Seminary of the entire kingdom of Dalmatia in Zadar, from which he has now resigned. The cathedral church of Zamora in Spain is vacant, due to the death of the Most Reverend Thomas Belesta and Cambeses, the last bishop of that see to die outside the Roman curia. The Reverend Aloysius Philip Ortis and Gutierrez, Bishop of Coria, was presented to the Most Serene Queen Regent of the Catholic Kingdom. The cathedral church of Palencia is vacant, due to the death of the Most

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Reverend John Lozano and Torreira, the last bishop of that see to die outside the Roman curia. The Reverend Henry Almaraz and Santos, a priest of the diocese of Salamanca, was presented to the Most Serene Queen Regent of the Catholic Kingdom. The Reverend Henry Almaraz and Santos, born in the place known as La Felles in the diocese of Salamanca, and having surpassed the age of forty-five, having been awarded a doctorate in sacred theology, and a bachelor's degree in canon law, has commendably fulfilled ecclesiastical duties. He has served several times as a vicar general in the diocese of Madrid. The titular archiepiscopal see of Damascus is vacant, due to the succession to the Algerian archiepiscopal see of the Most Reverend Prosper Augustus Dusserre. The Reverend Seraphin Cretoni, a priest of the Roman clergy, and assessor of the Sacred Supreme and Universal Inquisition, was appointed. He was born in the town of Soriani in the diocese of Civita Castellana, and having surpassed the age of fifty-nine, having been awarded a doctorate in sacred theology, and having subsequently obtained a license in philosophy, he served as a substitute for the Secretary of State, and in the Congregation for the Propagation of the Christian Faith for Eastern affairs, and previously served in the Tabularium. He is a former canon of Liberiana, and is currently a canon of the Vatican Basilica, attached to the household of the Supreme Pontiff, and has been appointed as an assessor of the Sacred Supreme and Universal Inquisition, and most recently was appointed Apostolic Nuncio to the Most Serene Catholic King. The cathedral church of Nitra is vacant, due to the death of the Most Reverend Augustine Roskovànyi, the last bishop of that see to die outside the Roman curia. The Reverend Emeici Bende, Bishop of Neusohl, was nominated, by the Most Sacred Imperial Majesty Francis Joseph I, Emperor of Austria, and King Apostolic of Bohemia and Hungary. The cathedral churches of Ruben and Bituntin, perpetually and canonically united, are vacant, due to the death of the Most Reverend Aloysius Bruno, the last bishop of those sees to die outside the Roman curia. The Reverend Thomas de Stefano, a priest of the diocese of Avellino, was appointed. He was born in the place commonly known as Monteforte in the diocese of Avellino, and having reached the age of forty, having previously been awarded a doctorate in sacred theology, he served as an examiner of the clergy and as a pro-synodal examiner in the Abbey of Montevergine, and delivered dogmatic lectures.

[*Latin ed. p. 393*]

FROM THE CONSISTORY ACTS, dated 393, in the city, and appointed as the General Vicar for the archdiocese, he also announced that he had previously appointed Vicars General for the dioceses of Ascula and Ceriniola. The titular episcopal see of Eudocien, under the Archbishop of Perge, is vacant, due to the death of the Most Reverend Timothy O' Mahony, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Aemilius Joseph Pourbaix, a priest of the diocese

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of Tournay. He was also appointed as an Auxiliary Bishop to the Most Reverend Isidore Joseph du Roussaux, Bishop of Tournay. The Reverend Aemilius Joseph Pourbaix, born in the place commonly called Trazeguies of the diocese of Tournay, and appointed in the forty-eighth year of his age; having served as a professor in the seminary of Tournay, he resigned from the position of superior and president of that seminary. The metropolitan see of Camerac is vacant, due to the death of the Most Reverend Odon Thibaudier, the last Archbishop of that see, who died outside the Roman Curia, with the favor of the Most Reverend Stephen Mary Alphonsi Sonnois, Bishop of Saint-Dié, at the nomination of the most illustrious man Francis Mary Sadi-Carnot, President of the French Republic. The cathedral see of Corisopiten and Leon is vacant, due to the death of the Most Reverend James Theodore Lamarche, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Henry Felix Valleau, a priest of the diocese of La Rochelle (-Saintes), at the nomination of the most illustrious man Francis Mary Sadi-Carnot, President of the French Republic. The Reverend Henry Felix Valleau, born in the place commonly called Conarde on the island of Re, in the diocese of La Rochelle, and having surpassed the fifty-eighth year of his age, having obtained the degree of Bachelor in Theology, has hitherto served in various parishes, first as a Vicar, and then as a Parish Priest, especially at Saint Peter of Santon. The metropolitan see of Bituricum is vacant, due to the death of the Most Reverend John Joseph Marchai, the last Archbishop of that see, who died outside the Roman Curia, with the favor of the Most Reverend John Peter Boyer, Bishop of Clermont, at the nomination of the most illustrious man Francis Mary Sadi-Carnot, President of the French Republic. The cathedral see of Bellovacum is vacant, due to the death of the Most Reverend Joseph Maxent Peronne, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Most Reverend Frederick Fuzet, Bishop of Saint-Denis, or Reunion, at the nomination of the most illustrious man Francis Mary Sadi-Carnot, President of the French Republic. The cathedral see of Andegavum is vacant, due to the death of the Most Reverend Charles Aemilius Freppel, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Francis Desiderati Mathieu, a priest of the diocese of Nancy, at the nomination of the most illustrious man Francis Mary Sadi-Carnot, President of the French Republic. The Reverend Francis Desiderati Mathieu, born in the place commonly called Einville of the diocese of Nancy, and appointed in the forty-fourth year of his age, has hitherto served in the place commonly called Pont-à-Mousson of the diocese of Nancy and Toul, as a Parish Priest. The cathedral see of Saint-Dié is vacant, due to the translation of the Most Reverend Stephen Mary Alphonsi Sonnois to the metropolitan see of Camerac, with the favor of the Reverend Alphonsus Peter Gabriel Foucault, a priest of the diocese of Chartres, at the nomination of the most illustrious man Francis Mary

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Sadi-Carnot, President of the French Republic. The Reverend Alphonsus Peter Gabriel Foucault, born in the place commonly called Senouches of the diocese of Chartres, and appointed in the fiftieth year of his age, has served as a Parish Priest and has resigned from the position of Canon and Ornamentarius of the Chapter of Chartres.

[*Latin ed. p. 394*]

394 FROM THE CONSISTORY ACTS: The Metropolitan Church of Brundisin, with the perpetual administration of the Episcopal See of Ostunen attached to it, is vacant due to the death of the Most Reverend Aloysius Mary Aguilar, the last Archbishop and Administrator of Ostunen, who died outside the Roman Curia, by the favor of the Reverend Father Salvator Palmieri, the titular Archbishop of Sardiani, with the perpetual administration of the aforementioned Church of Ostunen. The Cathedral Church of Claromonten is vacant, due to the translation of the Reverend Father John Peter Boxer to the Metropolitan See of Bituricensem, by the favor of the Reverend Peter Belmont, a priest of Lyons, for the nomination by the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. The Reverend Peter Belmont, born in Lyons, and having surpassed his fifty-fourth year, having previously been in charge of several parishes. The General Vicarius in spiritual matters of the archdiocese of Lyons has resigned. The Cathedral Church of Nanneten is vacant, due to the death of the Most Reverend Julius Francis Le Coq, the last Bishop, who died outside the Roman Curia, by the favor of the Reverend August Laroche, a priest of the diocese of aurelianensis, for the nomination by the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. The Reverend August Laroche, born in the place commonly called Saint Aubin of the diocese of aurelianensis, and having reached his fifty-eighth year, having previously been awarded the degree of Bachelor in sacred theology, the General Vicarius in spiritual matters of the diocese of aurelianensis has resigned. The Cathedral Church of Regina-Hradecensis is vacant, due to the death of the Most Reverend Joseph Hais, the last Bishop, who died outside the Roman Curia, by the favor of the Reverend Edward Brynych, a priest of the diocese of buvdivicensis, for the nomination by His Imperial Majesty Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary. The Reverend Edward Brynych, born in Vlasenice, "Bozeiov" in Bohemia, and having reached his forty-seventh year, having been chosen as the successor in theology, pastoral care, and the art of catechesis at the theological institute of Reginaehradecensis, having been devoted to the care of souls as a parish priest in the place of Zlunicen in the diocese of Regina-Hradicensis, and also as a chaplain in the Cathedral. He has resigned from the office of Canon of the Collegiate Church of Vysohradensis in the city of Prague, having previously served as President of the Catholic Association. The Cathedral Church of Saint Dionysius is vacant, due to the translation

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of the Reverend Father Frederick Fuzet to the See of Bellocavensem, by the favor of the Reverend Antoninus Fabre, a priest of Nemausensi, for the nomination by the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. The Reverend Antoninus Frabre, born in the city of Nemausensi, having surpassed his fifty-fifth year, having been awarded a doctoral degree, having previously been a parish priest in the place commonly called Chamigny, and in another in Charenton of the archdiocese of Paris, has also resigned from the office of Curate. The Cathedral Church of Rupellen is vacant, due to the translation of the Reverend Father Peter Mary Stephen Gustav Arilin to the Metropolitan See of Senonensem, by the favor of the Reverend Joseph Bonnefoy, a priest of the diocese of foroiuliensis, for the nomination by the most illustrious Francis Mary Sadi-Carnot, President of the French Republic. The Reverend Joseph Bonnefoy, born in the city commonly called Lorgues of the diocese of foroiuliensis, and having reached his seventy-seventh year, having previously been devoted to the care of souls, either as a Vicarius or as a parish priest, for many years, in several places, and having previously served as a Curate in the place commonly called Neuilly-swSeine. The Cathedral Church of Moulinen is for the Reverend August Renato Dubourg, General Vicarius of the diocese of Briocensis.

[*Latin ed. p. 395*]

FROM THE CONSISTORY ACTS, 395: The Cathedral Church of Cuschen was assigned to the Reverend John Anthony Falcón, Dean of the Chapter of Trunillo. The Cathedral Church of Ayacuquen, or of Guamanga, was assigned to the Reverend Julian Cáceres, Archidiacon of the Arequipa Chapter. Afterward, the Holy Father announced the following churches, newly provided through his Apostolic Letters in the form of a Brief: To the See of Brundusium, with the administration of the Church of Ostuni, he transferred the Reverend Father Salvatore Palmieri, titular Archbishop of Sardinia. He accepted the resignation of the Reverend Father Paschal Troksi, General Vicar of the Diocese of Dynachia, from the Archbishopric of Skopje. He conferred the titular Archbishopric of Sardica upon the Reverend Father Joseph del Vago, already General Minister of the Order of the Friars Minor. He conferred the titular Church of Archis upon the Reverend Father Claudio Mariae Dubuis, who had bid farewell to the Church of Galveston. He transferred the Reverend Father Nicholas Aloysius Gallegher, from the title of Canopita to the Cathedral Church of Galveston. He appointed the Reverend Father Lawrence de Petris Dolammare, already the Bishop of SapÃ«, to the titular Church of Herbon. He appointed the Reverend Father Joachim Arcoverde de Albuquerque, formerly Bishop of Goyan, as perpetual Coadjutor Bishop to the Bishop of Saint Paul in Brazil, with the title of the Church of Agea. He appointed the Reverend Father Gabriel of Mutina, of the Reformed Minorites, as

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Bishop of SapÃ€. He chose the Reverend Uladislaum, General Vicar of Cordoba, as an Auxiliary Bishop to the Bishop of Cordoba, with the title of Auchia. He also appointed the Reverend Rodesindum de La Lastra, Canon of Cordoba, as another Auxiliary Bishop to the Bishop of Cordoba, with the title of Miletopolitan. He appointed the Reverend Maxim Decelles as perpetual Coadjutor Bishop to the Bishop of Saint-Hyacinthe, and adorned him with the title of Drusipara. He accepted the Reverend Father Salvatore di Pietro of the Society of Jesus into the new Vicariate of Honduras, with the title of the Church of Eurolis.

[*Latin ed. p. 396*]

396 FROM THE HOLY CONGREGATION OF THE COUNCIL OF SYRACUSE, CONCERNING JURISDICTION OR FOUNDATION, dated December 10, 1892. Session 14, chapter 13, concerning Reform. SUMMARY OF THE MATTER. When the matter of erecting the parish and mother church of Saint George in the town of Ragusa Inferiore, within the Syracusan Archdiocese, into a notable collegiate church, was being considered before the Supreme Pontiff Innocent XIII, the priest Erasmus, of a noble family from Areti, requested that a Praepositura, the first dignity of the chapter, be established within that collegiate church, and that the right to present a candidate for that Praepositura be reserved to him and to his heirs and successors indefinitely, through a foundation or endowment, which he promised to provide. And an agreement was reached, so that the concession would not take effect unless, first, Erasmus established his endowment. Thus, in the Apostolic Letters of April 11, 1722, whose words the Syracusan Archbishop describes as follows: "So that, whenever the aforementioned Praepositura becomes vacant, it is understood that the aforementioned Erasmus intends to endow it completely, from his own secular and patrimonial goods, as will be explained below; but after such an endowment has truly and actually been provided, and no other condition, a suitable person shall be presented to the Roman Pontiff by the aforementioned heirs of Erasmus. And that same suitable person, presented in this manner, shall receive the aforementioned Praepositura from the Apostolic See, and that to Erasmus and his heirs indefinitely, the right of patronage and of presenting to Us, or to the Roman Pontiff at the time, a suitable person for the aforementioned Praepositura, as stated above, shall be granted, and that for the first time, the aforementioned Praepositura shall be conferred upon Erasmus, considering his endowment from purely secular goods and..."

[*Latin ed. p. 397*]

SYRACUSANA 397, concerning the aforementioned endowment, as often as it is drawn from the person and goods of the aforementioned Erasmus, held in his hands or in the hands of the Roman Pontiff existing at

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that time. Furthermore, the same Pontiff desired that those who were to be appointed to the aforementioned position should possess the order of the priesthood, and the title of doctor or master in theology or in canon law, or at least should hold such a position for a year; but the aforementioned Apostolic Letters were not put into effect until four years later, namely in the year 1726, when Erasmus again presented the promised endowment, assigning eleven talents and three measures of arable and cultivated land. The founder, Erasmus, was the first to hold the position. However, in the year 1750, being no longer able to perform his duties due to poor health, he presented his resignation to the Holy Father, with the favor of his nephew, Carmel Arezzi; and then, on December 25th of the same year, he publicly made a donation of all his goods in favor of his nephew Bernard Arezzi and his descendants, in perpetuity, with a perpetual fideicommissum, and also "with a special condition and reservation of the right of patronage in perpetuity to present or nominate successors to the aforementioned collegiate, according to the form of the founding act and the Apostolic Bulls, to which he refers; and he also established that, in the event that the line of Bernard should fail, another line should succeed, namely "the eldest son of the aforementioned former Baron, Don Corrado Arezzo, who is then found to be Baron Donnafugata, or he from his sons and descendants, or from the sons and descendants of Don Corrado, who is found to be in fact Baron and possessor of that fief." Bernard Arezzi also added his own goods to the substance of his father-in-law, and in the year 1769, he made a will in which he first named his son Vincent as his universal heir, and then he restricted the entire estate with a perpetual fideicommissum, so that it would be preserved by Vincent through the entire series of descendants, and finally, to the male heirs through the female line.

[*Latin ed. p. 398*]

398 In Syracuse, after the male and female lines had become extinct, he called upon his eldest son, Don Corrado of Arezzo, his brother, to inherit according to the same laws and stipulations. Although in this testamentary arrangement, he included the goods given to him by his paternal uncle and wished them to be subject to his fideicommissum, he nevertheless added this limitation: that, nevertheless, in all other respects, the aforementioned donation should remain in its original state, according to the intention of the aforementioned uncle who had made the gift. After the death of Bernard, Vincent the younger should have succeeded. However, even before this, Francis, the second-born, inherited the patrimony and the right of patronage by fideicommissum. This Francis also exercised the patronage as a representative foundation, as he himself stated in the act of nomination made in the year 1834, in the quality of the universal heir, the substitute of his father, Don Bernard of Arezzo, who was the sole universal donative heir and founder. In the year 1842, he passed away from this life, leaving

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behind only one sister, named Emanuela. He passed over her as his heir, and bequeathed all his goods and rights to Pasquale Di Quattro, because, he said, "he was good to me and a faithful friend." From Emanuela were born Raphael, Claudius, and Aloysia; of these, only Aloysia survived. And from Claudius were born Raphael, Emanuela, Aloysia, Vincentia, Flavia, Vincent, Concepta, and Salvator, who, most recently, together with Aloysia, were named. From Pasquale were born George and Pasquale the younger, Di Quattro. In the year 1872, the benefice became vacant, and at the appropriate time, no one was named. Then, from the Holy See, Emanuel Ottaviano received the Praepositura. However, when this man died on September 15, 1891, several individuals claimed the right to name a patron. Aloysia, with her eight nephews, presented Canon La Rocca, and the Baron de Donnafugata, from the Arezzo family, also voted for him. George and Pasquale Di Quattro, however, named the archdeacon Comitini.

[*Latin ed. p. 399*]

SYRACUSANA 399. A concise discussion. The advocate defending the rights of Canon Emanuel La Rocca initially points out reasons of equity and family that favor the aforementioned canon. He then recalls the law concerning the foundation, which requires that the beneficiary either hold a doctorate or another license. However, although neither of those named fulfills this condition, Canon La Rocca requested a dispensation, and was presented under that condition; but the archdeacon Comitini has not yet accepted academic orders, nor has he requested a dispensation. Therefore, since the condition is lacking, the presentation of an unqualified individual must be considered invalid, as stated by Gagliardi in *De iure patronatu*, volume II, chapter XX, paragraphs 1, 3, and 17. Subsequently, addressing the question of the right to nominate, he argues that the intention of the founder Erasmus was that not the heirs of property, but the heirs of blood, or those descended from him, should be called to the patronage. He believes that the addition "in infinitum" supports this interpretation. Furthermore, he states that the intent and spirit of the words prevail, and especially the observance of the testator, as stated by Pitonio in *Ali. 33 de controv. pair.*, number 16, who writes: "...no better interpretation of the founder's law can be given in our law than that derived from the observance of the founder himself." To this, De Luca adds in *disc. LXI num. 13 de beneficiis*. However, the founder Erasmus, in the documents of his donation, bequeathed all of his property to his nephew Bernard "accepting and stipulating for himself, his sons, and descendants in perpetuity," including "the right of patronage." Therefore, the advocate argues, the rights of blood and family constitute the primary reason for the donation, and that in order to provide greater security, the donor bound the property with a fideicommissum. And indeed, all the property (the donor stated) "shall be considered and shall belong to Bernard and his sons, grandsons,

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descendants, and successors in perpetuity and in infinitum, even under the following substitution, as is given below, under a strict bond." DEFENSE OF CANON LA ROCCA.

[*Latin ed. p. 400*]

400 SYRACUSAN: "Furthermore, this commission stipulates that the aforementioned Lord Bernard, along with his sons and all his descendants, perpetually shall be and ought to be simple users and beneficiaries." After these statements, the aforementioned Advocate does not believe there is any reason to doubt that such a patronage right is both customary and familial. He supports his argument with references to Piton in Allegation 37 concerning patronage, and adds several decisions of the Holy Roman Rota, including the Veliterna decision on patronage, dated February 28, 1853, § 1, signed by the Most Reverend Cardinal Mertel, which states: "Having examined the law establishing the foundation and the observance of the presentations, it was determined that the patronage right extends broadly to all descendants of the Tersenghi family, since patronage is considered to belong to a family whenever all members of that same lineage, race, and family are called to it." Therefore, the Advocate concludes that the patronage right was, from its origin, either customary or at least mixed, which, as stated by Gagliard in his work, volume 1, chapter 3, paragraph 20, certainly requires a quality of blood along with hereditary succession. Furthermore, the Advocate continues, even if the patronage was originally intended to be hereditary, it is certain that it was changed by the founder himself and by his successor. For not only Erasmus, but also his successor, Bernard, explicitly imposed a customary quality upon it. "I wish," the latter wrote, "to subject all of my inheritance to perpetual succession, in favor of the descendants of my relatives... and upon the complete extinction of my agnatic descendants... I wish that my daughters succeed one after another, and their respective descendants." Furthermore, the aforementioned testator declares that he had received many gifts and properties from his uncle, Erasmus Arezzi... and he wishes that these gifted properties be included in the primogeniture. This is the fact. However, according to the law, it is the unanimous opinion of prudent men that a change from hereditary to customary patronage is permitted, even without the consent of the Ordinary, although not by the founders, but only by the successors. For this conversion benefits the Church more than it prejudices it, and it does not cause harm to those who may be called in the future.

[*Latin ed. p. 401*]

SYRACUSANA 401 grams. To demonstrate this, he cites the testimony of Fargna concerning the law of patronage, volume 2, page 2, canon 1, sections 2 and 5, number 3 and 14; the Holy Roman Rota, in the case of the parish of Pardessoa near Compostellana, Falconer, in his treatise on the

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law of patronage, decision 8, number 9; and Cardinal De Luca, on the law of patronage, discourse 60, number 22 – where he states: "But concerning those who cannot be called founders, nor the first acquirers, whether it pertains to hereditary patronage which the possessor makes familial or gentile, and there is no doubt that this can be done without any authority from the Ordinary... because it is in the interest of the Church that the right of patronage be familial or gentile, rather than purely hereditary." With these premises, the Advocate argues that the nature of familial patronage is not only derived from the words of the donation, but also from the trust established, to which the right of patronage is attached, deriving this from common law, as taught by Gagliardi, op. cit., volume 1, chapter 10, section 29, and De Luca, on the law of patronage, discourse 60, number 4. For, he says, in the case where agnates are called to the trust before females and their descendants, it clearly follows that the right of patronage should also be considered familial and gentile. Having brought matters to this point, the Advocate warns of a danger to the patron, which he fears is being prepared by others through perhaps misleading interpretations of the founding documents, in order to attack the quality of familial patronage. He contends that he will demonstrate that such a document is apocryphal through several arguments; and he confirms this with the testimony of two parish priests, each of whom testifies that the document in question is a forgery and was recently fabricated by stealth. He then addresses the objection concerning the abrogation of trusts, which he considers entirely foreign to the rights of patronage, the civil abrogation of which the Church has never recognized. Furthermore, he maintains that, by decree of the year 1818, these rights were restored to their former state in the Kingdom of both Sicilies. Moreover, concerning the observance of these matters, the Advocate, Canon La Rocca, contends that this will harm the opponents and greatly benefit his client, because the patrons have always been from the family of Areti. Acts, Volume XXV, page OOXCV, 26.

[*Latin ed. p. 402*]

402 In Syracuse, furthermore, a prescription against successors, based on the law of inheritance, is presented, stating that they cannot be considered to have any standing in this matter, according to what is stated by Pitonio in vol. 11, no. 22, and vol. 66, no. 29, concerning patronage. However, it is argued that this presents a significant obstacle to proof, since in both instances, Franciscus has declared himself to be the designated heir, either through a testamentary arrangement or through the law of inheritance. Given these circumstances, the proponent identifies legitimate successors in this patronage based on the genealogical tree. Indeed, it is argued that agnatic succession has failed; but, the extinction of agnatic succession does not necessarily mean that the right to inheritance passes to outsiders, but rather that descendants through the female line are called upon, as testified

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by Pitonio in *de con* r. 'pair, vol. 37, no. 7. Furthermore, the cases of Erasmo and Bernard provide a clear indication of intent. One called upon descendants without limitation or distinction; the other stipulated that, in the event of the extinction of agnatic succession, they should succeed, in this case, my Alice, and her descendants, one after another, in the same order of primogeniture, and under the same laws. It is shown that the right of inheritance through the female line is indeed present in the patronage of Arezzi-Paternò; indeed, there is no failure of agnatic succession in the collateral line, of which Conrad, Baron of Donnafugata, is the surviving member, who also named the canon La Rocca. Finally, the argument is refuted that patronage, as a real right, is added to the owners of the property. For, as Gagliardi *op. cit.*, vol. 1, chapter 3, § 11, writes, "real patronage is that which is attached to the foundation or estate," while personal patronage "belongs to persons independently of any particular thing." However, the prelate, according to his foundation, has a dowry, and this dowry was never possessed by the family of Areti. Having demonstrated these points, the canon La Rocca concludes that the right of patronage has been, from its origin, either entirely or at least partially based on the law of inheritance. Although it was not entirely based on the law of inheritance from the beginning, this characteristic was added by the will of the founder and his successors. And therefore, Franciscus could not alienate the patronage from the descendants, to whom he insisted belonged the entire inheritance of the family of Areti.

[*Latin ed. p. 403*]

SYRACUSANA, 403. Those who defend the institution of the archdeacon Comitini, having noted that the primary and most important question in this matter concerns the ownership of the patronage, so that, once this is resolved, it will easily be apparent who should be instituted, divide their argument into two parts. In the first part, they maintain that the patronage is hereditary, based on Apostolic Bulls and the instrument of endowment of the praepositura. In the second part, they argue that it has always been so and that, as such, it has passed to the patrons Diquattro.

Regarding the first point, they recall that it is well established in law that, in matters concerning patronage, the letter and tenor of the founding document are the governing rule, as Piton states in *Allegationes*, 42, number 5, concerning controversies about patronage. The entire matter depends on this, since the founder is free to either relinquish the patronage entirely or reserve it for whomever he wishes. Furthermore, they continue, if one examines the letter of the founding document, or the Bull of Innocentius, everything indicates that the patronage is simply hereditary. Indeed, the founder Erasmus expressly desires that the presentation to the praepositura be made by his heirs, "that it be presented by the aforementioned heirs of the aforementioned Erasmus," and that the right of patronage be

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reserved to them perpetually, and that to Erasmus and his heirs, "the right of patronage and of presentation is perpetually reserved and assigned." However, the explicit mention of heirs establishes the hereditary nature of the patronage, as Berardi states in *Commentaria in Ius Ecclesiae*, volume I, on patronage, dissertation 4, chapter 2: "Therefore, it is held by a stronger right to be hereditary if the founder expressly calls the heirs."

Furthermore, according to Piton, in the aforementioned work, *Allegationes*, 3, number 4, the conjecture of the hereditary quality of the patronage is most strongly confirmed in this matter, since in the entire context of the Bull, no mention is made of descendants, nor is any consideration given to family ties. Finally, they refute the objection that, although the term "heirs" may designate blood relatives or descendants, Berardi, in the aforementioned passage, notes that this was the case under the Roman legal system, but in our times, "from the common meaning of the term..."

[*Latin ed. p. 404*]

404 In the SYRACUSANA diocese, it is commonly accepted that a person designates their heir in no other way than by indicating the one who will succeed them. In a similar manner, the advocate seeks to establish the validity of their argument based on two instruments of endowment, because these instruments were carefully drafted and preserved in all "form and tenor" of Apostolic letters, and indeed, in their execution, "so that due regard may be had for the truth of the matter." Emphasizing these clauses, he maintains that the right of patronage is the same as that reserved in Apostolic briefs, provided that the reference does not contradict the stated facts, nor exceed what is explicitly stated. The Sacred Roman Rota, in the case of the Fermo Chapel, March 10, 1833, no. 5, before Serlupi and Piton, cited in Alleg. 86, no. 19, op. cit. He further argues this point based on the very words of the instrument, where the right of presentation is reserved to the heirs and successors "so that, whenever the aforementioned prebend becomes vacant, it must be presented by the heirs and successors of the aforementioned founder, and the same suitable person must be appointed by the Apostolic See." For, in addition to the fact that this formula must be understood according to the tenor of the Bull, the word "and successors" is either placed explicatively, and then it means the same as "or successors," since the term "successor" is also used to denote an heir, as the inheritance itself is commonly called a succession, see leg. 24 and 170 ff. on the meaning of words; or it is placed ampliatively, and then it means that not only the founder's own heirs are included, but also anyone who succeeded the founder, even if they are strangers. Finally, to remove all doubt, the advocate cites two decisions, the first being that of the Supreme Magistrate Florentini, reported by Scarfantonio to Ceccoperium in the case concerning vows, decision no. diverser, judge's decision no. 62. Certain individuals established a chapel, reserving the right to nominate "for themselves, their

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heirs, and successors." Over time, the right of nomination was transferred by donation to a certain outsider, while three sisters, descendants of the founder, were still living. A dispute arose between these sisters and the donee. The defender of the three sisters argued that the right of patronage was mixed, based on the words of the founder "for themselves, their heirs, and successors," and that no renunciation of the donation was valid.

[*Latin ed. p. 405*]

SYRACUSANA 405 bat. E. Conversely, the advocate for the *donatarii* maintained that the cited words indicated a patronage that was purely hereditary, and the decision issued by the supreme magistrate of Florence was entirely favorable to the defender of the *donatarius*. Another decision is that of the Sacred Congregation, in the case of Sarnen, regarding Patronage and Institution, dated January 18, 1854. Certain spouses, Mazza, founded a chaplaincy (which was later converted into a canonry by the surviving wife), reserving the patronage for themselves and their successors *in infinitum*. In the year 1713, the patronage passed by donation to the family of Barbaroli, with the law of primogeniture. Subsequently, in the year 1851, when the canonry became vacant, the Barbaroli, acting as private patrons, presented the priest Origo. However, certain members of the Landriani family, claiming to be co-patrons with the Barbaroli, presented Franciscus Landriani. And although, in the first stage of the case, on August 28, 1852, the Sacred Congregation responded to the proposed questions: "I. Whether and in whose favor it can be determined that there is patronage in this case. II. Whether and to whom the institution should be granted in this case," with: "To the first, affirmatively, in favor of both families, the Landrinis and the Barbarolis; to the second, affirmatively, in favor of the priest Landriani;" nevertheless, the same Sacred Congregation, in the second stage of the case, namely on January 18, 1854, completely changed its opinion and, after retracting from its previous decisions, responded to both proposed questions, stating that the patronage pertained solely to the family of Barbaroli, and that the institution should be granted to the priest Origo: a decision which was confirmed in the third stage of the case, on May 20, 1854, with the response: "To the first and second, in accordance with the decisions made in the second stage, and further." In the three stages of the case, the defenders of Barbaroli and Origo maintained that the matter at hand concerned a hereditary patronage, reserved for themselves and their heirs and successors, but the defender of the Landrianis argued that the cited wording indicated a patronage of a more general, familial nature. Therefore, the patron concluded, from both decisions, the theory remained that the formula indicated a patronage of a purely hereditary

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nature for the heirs and successors.

[*Latin ed. p. 406*]

406. The Siracusan case: Consequently, it clearly emerges both from the Apostolic documents and from the instrument of endowment that the right of patronage is simply hereditary. The advocate, addressing the second point, admits that the hereditary nature of the right of patronage can be altered by the founder and his successors within the family or clan; but at the same time, he argues that two facts presented against him, namely, the donation made by Erasmus in favor of Bernard and Bernard's will, clearly demonstrate that the right of patronage has retained the character impressed upon it by the Apostolic letters. Indeed, the founder, Erasmus, transferred all his goods and rights to Bernard through a general donation, which takes effect during his lifetime, "specifically including the right of patronage to choose the successor of the Prelate of the Roman Chapter." Since no mention of a fideicommissum (trust) is made, it must be held that the right of patronage is included according to its primordial nature. But, if we were to admit, for the sake of argument, that this general disposition is subject to a fideicommissum, it would not follow that the right of patronage is included in the fideicommissum, because the donor intends it to pass to the donee "according to the form of the act of foundation and the Apostolic bulls to which he refers." Thus, he argues, the preservation of the hereditary quality cannot be more clearly affirmed. Furthermore, to illustrate the meaning of the words "according to the form and tenor," he cites Piton, op. cit., alleg. 100, no. 528, who says: "Therefore, when the Ordinary reserved the right of patronage according to the form of the will, he referred to the will, and this reference operates in such a way that the reservation of the right of patronage must be understood according to the tenor of the words of the will, or the law of foundation, to which reference has been made, according to the well-known rule that the referred to is more important than the referring." He states that the very tenor of the instrument favors this view. Indeed, after Erasmus had completed the general donation and made certain bequests, he expressly designated goods subject to a fideicommissum; and as if he had not sufficiently explained to which goods the fideicommissum extended, in the subsequent passage, he...

[*Latin ed. p. 407*]

SYRACUSANA, in position 407, repeated five times "good and stable property, or remaining stable property," to which he only wished to attach a limited trust. And indeed, in this part of the donation, a particular trust is established, limited to certain property, in which the right of patronage is not included, although the right itself is mentioned by name. Pitonius, cited in his work, Allegations, 46, note U: "It cannot be objected that the right of patronage should be considered part of the form of a particular trust

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imposed on stable property, because the right of patronage does not fall under a particular trust restricted to certain property, but only under the generality and universality of other property and rights; therefore, we must regulate it according to the form of a universal donation, independently of the particular trust itself." However, today, according to Cardinal De Luca, discourse 36 on the right of patronage, it is often possible, even with slight conjectures, to deviate from the ancient rule that the right of patronage is exclusively included in a trust, because it is much easier to presume that someone who wished to have property preserved in one family also wished for the preservation of this honorary right; however, this must be understood in the context of a general trust of all property and rights. For trusts are a delicate matter and are not to be extended from case to case, but only the cases expressly mentioned by the settlor are to be considered, as the Rota states in the case of Faventia, Trust Decisions, 772, note 2, before Lancetta. Therefore, the principle of including the right of patronage is incorrectly applied in this case, since the testator's clear will resists it. Then, referring again to the will of Bernard Arezzi, he says that it is easy to see that the testator intended to make a double disposition. The first concerns all property belonging to him, regarding which he established a broad agnatic trust in the form of primogeniture; the second concerns the property left to him by his uncle Erasmus through a donation, and this part of the will is the subject of the dispute. Furthermore, here the testator wishes the property left to him by his uncle Erasmus to be subject to the same law of primogeniture mentioned above, notwithstanding.

[*Latin ed. p. 408*]

408 Of SYRACUSANA, which perhaps my uncle arranged differently; for Erasmus had only established a simple trust, intending that it should benefit the descendants of Bernard, and, as a subsidiary provision, had called the line of the barons Donna to the primogeniture. From this, it is argued that the discussion only concerns the goods entrusted by Erasmus. But since it has been demonstrated above that the right of patronage was not included in the trust established by the donor Erasmus, it necessarily follows that it could not have been included in the new form imposed upon it. Bernard continues: "Since I, as testator, wish to retain these goods due to the enormous expenses involved in maintaining them; because the expenses exceed the value of the goods; and therefore, as if they were my own, I wish that these goods be subject to my primogenial trust and agnatic succession. Therefore, the goods which are to be subjected to the trust are those of estimable value: 'but the right of patronage, as Pirrhus Corradus states in *Prax. Benef.*, book 5, chapter 5, number 38, being attached to spiritual matters, is invaluable and, though without price, is precious,' and it cannot be acquired by a burdensome title, lest one incur the crime of simony, and be subject to the penalties established by the Council of Trent,

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session 25, chapter 9. Therefore, Bernard did not consider the right of patronage at all when he spoke of the goods to be subjected to the trust, if, with the donation of my uncle before his eyes, he categorically affirms that the will of Erasmus must remain intact in all other respects: leaving, however, with regard to other matters, said donation in its original state, and according to the intention of my uncle. But after a brief consideration, he says, some doubt remains, which vanishes through observation and interpretation derived from the acts, both of the founder and of his successors. Indeed, in the year 1750, the founder, in letters to the procurators for the resignation of the benefice in the hands of the Roman Pontiff, in favor of his nephew, a cleric of the Carmelite Order, Arezzi, expressly declared himself the patron "by virtue of the concession of such a right of patronage in favor of the aforementioned Arezzi and his heirs, as inserted in the apostolic bulls of the erection of the aforementioned collegiate church." The same is repeated in the act of consent given by the same for the execution of the apostolic letters: "with the concession of..."

[*Latin ed. p. 409*]

SYRACUSANA 409, by favor of the sacred officials of Arezzo and the heirs of that place, is recorded in the apostolic documents. "The same statement is found in the Apostolic Bull concerning the granting of the Rectorship to the aforementioned Carmel, regarding the right of patronage belonging to the laity, namely, the most beloved son, Erasmus of Arezzo, a priest, and his heirs, by virtue of the foundation and endowment." These statements, as well as being interpreted as reflecting the founder's intention regarding the nature of the patronage reserved to him, but since they are contemporary with the instrument of donation, having been issued in the year 1750, they sufficiently demonstrate the founder's will to preserve the patronage unchanged, without any regard for family or lineage. This is further confirmed, he says, by the fact that Franciscus Arezzi Paterno, who succeeded his brother Vincent, when presenting the Reverend Michaelangelo Arezzi, a Baron of Tre/filetti, for the vacant Rectorship in the year 1834, completely excluded any consideration of the house or family, and stated that he exercised this right only as an heir, "since such a right of patronage belonged to the Lord Arezzi Paterno, as the universal heir, substituted by his father, Lord Bernard Arezzi Paterno, who was the sole and universal heir of the founder." Indeed, the presentation made under a hereditary title demonstrates the hereditary nature of the patronage, as stated by Ferraris, *Jura Canonica*, Verb. *iuspatron.*, art. 1, no. 8, as well as by the Sacred Roman Rota, Decree 770, no. 4: "Hereditary patronage is demonstrated by the expression of the hereditary quality made by the presenter." Especially if the presentation was made under a hereditary title in the last will, this should be considered as excluding the right of patronage by lineage, as taught by the same Sacred Roman Rota, Decree 181, a.17, and Decree 223,

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no. 14, part 19, recent. Otherwise, he says, the Ordinary of Syracuse judged in the letters of granting the Rectorship to Michaelangelo Arezzi. First, it is asserted that the right of presentation belonging to Franciscus Arezzi Paterno is derived from the apostolic letters and the act of donation of the Rectorship, to which reference is made... "His election and presentation, according to the terms of the act of foundation and endowment, and its canonical erection and institution, according to the Bulls, to which reference..."

[*Latin ed. p. 410*]

410. It is stated that the matter pertains to the Illustrious Knight Francis Arezzi Paterno. Secondly, it is said that such a designation should be attributed to the aforementioned Francis not because of his family and lineage of the Arezzi, but because he is the heir and successor, through intermediaries, of the founder Erasm.

"It is understood by no one," it is said, "how much such pronouncements by Ordinaries should be heeded, when they themselves are presumed to be most informed about the nature of the benefices in their diocese, and it is not easily accepted when such expressions diminish the ordinary power of the Ordinaries concerning the benefices."

"In the matter of pronouncements," says De Luca of Iuvep, *Disputationes*, 57, number 20, "it is necessary to consider whether those pronouncements are made by Ordinaries to whom, as interested parties and speaking on a matter prejudicial to themselves, too much deference is given."

The same interpretation, and even more clearly, is given by the words of a Bull, by a modern Ordinary who, when asked by the Sacred Congregation to express his opinion, said: "Indeed, from the cited article of the Bull, it is clear that the right of nomination and presentation belongs to the heirs of Bernard Arezzi, who was the universal donator of the founder Erasm. Therefore, it concludes that the patronage is hereditary and has remained so. Given this, it is easily seen that the aforementioned right has passed to the patrons Diquattro. For, after the abolition by civil law in the Kingdom of Sicily in 1818 of fideicommissa, Francis Arezzi Paterno, lacking legitimate children, in his will of 1842, named Paschal Diquattro as his universal heir, transferring to him all goods with the right of patronage. Paschal Diquattro, in turn, by his will of 1865, established his son George and his nephew Paschal as his universal heirs, who are therefore the legitimate patrons, representing the founder through intermediaries. But," he says, "the opponents might object that the Rectors have always been elected from among the descendants of the family of the founder Erasm; and if someone from outside the family was elected, it happened because there were no suitable persons within the family, as can be seen from the act of the election of Francis Arezzi Paterno."

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Indeed, from passive patronage to active patronage, in order to ascertain its nature.

[*Latin ed. p. 411*]

SYRACUSE, 411. Therefore, it would seem to be argued. Consequently, if the founder wished that superiors be chosen among his descendants, it should be presumed that he also restricted the right of presentation to these individuals. This argument, however, lacks any foundation. For, it could absolutely be denied that the founder established a passive patronage and designated individuals to be presented for the vacant position of superior, and the opponents could not demonstrate this. Moreover, the fact that those named have almost always been related by blood to the founder is irrelevant, but only proves the patrons' preference for them. For, as experience teaches, any patron, in presenting candidates for benefices, almost always favors those related to him over strangers, due to a certain natural feeling of affection. But it is one thing to be compelled by the law of the foundation to do so, and another to act from a certain natural bond of affection; in the latter case, he is entirely free, but not in the former, when those who are passively called are considered to have been presented by the founder himself. Furthermore, even if this passive calling were admitted in this case, it does not follow that the hereditary quality in active patronage is excluded, as De Luca teaches, *de iurep. disc. 28, n. 11*. Therefore, it is concluded that George and Paschal Diquattro are the only patrons in the presentation of the superior, and that the institution should be granted to the archdeacon of Comitini. Finally, if it were objected that the presentation is to be considered null, because it was made by the Ordinary, while the institution is reserved to the Holy See, the advocate responds: first, that the Diquattro brothers presented the candidates to the Archbishop, so that he might then inform the Holy See of the elected person; second, that Pitonio, *op. cit.*, allegation 22, number 23, states that although a presentation is null in itself, nevertheless, if good faith is present, as in this case, it prevents devolution, and the patron is still able to present again. With these two points presented, the purpose was to resolve the doubt as to whether and to whom the institution should be granted in this case. RESOLUTION. After deliberation by the Sacred Congregation on December 10, 1892, it was decided to respond: Affirmative, with the favorable vote of Canon La Rocca.

[*Latin ed. p. 412*]

412. LUCANA. REMOVED FROM THE PARISH. July 23, 1892. Session 21, chapter 6, concerning reforms. Hyacinthus Cantoni, who had been pastor of the place called Mutigliano, in the diocese of Lucania, since the year 1857, had, due to the harshness of his character and certain incidents that occurred between him and the people, especially during the construction

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of the new parish church, become odious to the aforementioned people. And the situation had reached the point that, in the year 1882, certain parishioners set fire to the parish house at night, and began to threaten and plot against him in other ways. Consequently, the aforementioned pastor deemed it necessary to safeguard his own life by withdrawing to a safe place, which he immediately did, after consultation and with the consent of the Bishop of Lucania, who appointed an economist to care for the souls. Shortly afterward, the same pastor petitioned for a dispensation from his residence; and this Sacred Congregation, on March 5, 1883, granted this requested grace for only one year, with the admonition that the pastor should, in the meantime, endeavor to reconcile himself with the sentiments of the parishioners, lest he should either abandon the parish or be deprived of it. However, the year passed without the aforementioned circumstances improving; and the Sacred Congregation did not deem it appropriate to extend the dispensation, except for another six months, with the further clause: without any hope of further extension. The Archbishop, seeing the hope of reconciliation fading day by day, and believing that the pastor had sincerely intended to abandon the parish, without intending to take on another charge, petitioned, and on September 22, 1884, obtained that the aforementioned pastor be dispensed from the parish, according to the customary form from the title of Holy Orders, until otherwise provided. The Archbishop did not approve of this outcome, and the matter remained in the described state, as it remains to this day; for a SUMMARY OF THE FACTS.

[*Latin ed. p. 413*]

LUGANA 413: The parish priest neither requested assistance for his church nor wished to send a messenger. However, this became known only in the year 1890, when the *oeconomus*, appointed for the care of souls, reported that the parish priest had only paid him a monthly stipend of 23 *librae*, which was entirely insufficient for his honest sustenance; and therefore, he stated, he had informed both the parish priest and the Curia, which until the year 1888 had added seven letters to the aforementioned stipend, that he would no longer celebrate Mass for the people, and in fact had omitted it from November 1, 1888, believing that only the parish priest, who refused to increase the stipend to 30 *librae*, was obligated to provide for the aforementioned expense. On the occasion of this appeal, which was immediately forwarded to the Archbishop, the following was reported about the parish priest by the aforementioned Prelate: "He lamented that he had not been able to obtain the resignation of the parish priest, although other benefices had been offered to him." Even recently, three benefices were offered to him, which he refused, stating that he would not send a messenger to the parish unless he first obtained adequate provision. Without delay, a letter was written to Lucano by the Prelate, instructing

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him to inform the parish priest, in the name of the Sacred Congregation, of a peremptory deadline of one month to resign from the benefice, with the reservation of a modest pension, according to the resources of the same benefice. The Archbishop immediately complied with this mandate, determining an annual pension of only 150 *librae*, since the resources of the benefice could not bear a greater burden. Indeed, the income of the benefice, after deductions, barely reaches the sum of 469 *librae*, 15 *denarii*, which sum, after deducting the pension of 150 *librae*, is finally reduced to an annual sum of 319 *librae*, 15 *denarii*. The parish priest, on the contrary, before the aforementioned deadline had expired, appealed to the same Sacred Congregation, presenting the following arguments in his favor: "The mandate to relinquish the parish is equivalent to a threatening deprivation, which cannot be decreed without a prior canonical process, which would otherwise be rendered futile, since he is not conscious of any crime, nor does he harbor any hatred of the people, or rather,..."

[*Latin ed. p. 414*]

414. Si Lugana, sive quinque mali, non constituant causam canonicam privationis, et factum non-residentiae ipsi imputari nequeat, quia non pendet a sua voluntate, et praesto est insuper iusta ratio infirmitatis. Numquam ceterum ab emittenda renunciatione alienum se exhibuit, quatenus sibi collatum fuisset beneficium, aptum suae aetati annorum 66, et servitio Ecclesiae praestito; dum e contra oblatae fuerint tres paroeciae, nihil sibi idoneae, quorum reditus minor libellis 30 pro singulis mensibus. Atque, nonnullis aliis adductis rationum momentis, concludit: sese protueri velle sua iura; et ideo paratum esse iterum accipere moderationem paroeciae, aut isti nuncium mittere dummodo pensio non minor 36 libellarum sibi assignetur. Ordinarius autem retulit: statum anormalem illius paroeciae adhuc prosequi: curasse ut parochus renunciationem emitteret, eidem adpromittendo pensionem aequalem reditibus suae paroeciae; sed frustra. Quoad oblata illi beneficia, Parochus sese opposuit, quia de sua idoneitate iudicium non relinquit Ordinario, et petit officium quod eidem ex conscientia committi nequit. Petit tandem Archiepiscopus ut paroecia illa declaretur vacans ut eidem per concursum parochus assignetur.

Disceptatio Synoptica.

DEFENSIO PAROCHI.

Porro, favore parochi animadvertendum imprimis occurrit, eius remotionem ab ecclesia loci Mutigliano ad hoc demum reduci, nempe ad beneficii parochialis privationem, pro qua decernenda delictum profecto requiritur, et quidem in iure expressum, concludenter probatum, praevio canonico processu, ac servata sacrorum canonum forma quoad trinam praeviam monitionem, si de crimine insuper agitur quod emendationem

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recipit. Idque prorsus exploratum in iure esse admonent conclusiones officiales in eausa S. Severini, 4 Aprilis 1778, § Addit penes S. C. C., agitata nec non in Siracusana, 17 Decembris 1887, § Contra vero et § Atque.

[*Latin ed. p. 415*]

LUCANA 415. Indeed, I will not say of the process, concerning which neither word nor trace can be found in the records, that it is futile for someone to seek, within the bundle of documents, an accusation of any crime that would warrant punishment by deprivation of office. Moreover, it seems singular to me that no one from the laity, to whom the parish priest is said to have been odious by the Archbishop, has brought complaints against the aforementioned parish priest, as is commonly the case in such situations. Therefore, it may perhaps be inferred that there is no underlying cause in the matter that would justify the removal from the parochial benefice. Meanwhile, the fact of absence from the parish, which emerges from the bundle of documents, and which extends from the year 1882 to the present, does not appear to constitute either a crime or a fault. For in law, not every absence from the place of the benefice is punished by deprivation of the same benefice, but only those absences that do not have a just cause, and which, moreover, are considered to be in the category of contumacy, after three legal warnings or public edicts, and a subsequent lapse of six months. Let Giraldi be heard, who in *Auflit, ad Barbosam de Off. et potest, parochi* p. 1 cap. 8 ii. 75, after the aforementioned observation, states: "Against non-resident parish priests, it is possible to proceed by deprivation of the benefice, and also by censures and subtraction, and sequestration of the fruits," and then continues: "However, that such proceedings can be taken against them, the Sacred Congregation declared in Gerunden, on April 20, 1621, provided that three public edicts precede, and a period of six months has elapsed, according to the Constitution of Innocent III, *cap. ex tuae*, in this title. And when it was asked whether the Bishop, after the aforementioned three warnings for the return of the parish priests to their residence, could proceed to the deprivation of the parish, and thus, whether those words of Trent should be understood inclusively or exclusively, even up to deprivation, the same Congregation, on June 8, 1624, declared that they should be understood inclusively, provided that three public edicts precede, and a period of six months has elapsed, according to *cap ex tuae, de Chr. non resid.*" Now, none of these legal remedies are being applied to urge the...

[*Latin ed. p. 416*]

416 It appears that the law regarding residence has never been applied against the parish priest of Cantoni, nor even threatened; this leads one to believe that the Lugana court itself considered that the aforementioned parish priest had a just reason to be excused from the requirement of resi-

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dence. And indeed, the matter stands as such, adds the parish priest, and furthermore, he alleges that this is confirmed by a public act dated April 7, 1891, presented before the Vice-Prefect of Lugana, and confirmed by the sworn testimony of four priests. From this, it is evident, besides the notoriety of the fact, the impossibility of returning to his own parish due to the opposition of some parishioners. It clearly appears that the absence from the place of his benefice cannot be imputed to the parish priest, as taught by rule 41 of the law in 6°: "He is not to be held accountable if he does not perform what was to be done by him, if he is not present." Indeed, it might even be concluded that the law regarding residence is rather fulfilled than violated, according to another rule of the law, which is 06 de Rey. L in 6° - there - "If he is not present by whom it pertains, so that the condition is not fulfilled, it should be considered as if it had been fulfilled." Furthermore, from the aforementioned public act, it also seems to follow that this is not a case of bringing a lawsuit against the parish priest demanded by the people for his removal from the parish; for it is only a matter of the opposition of some, of which no account should be taken, except to devise appropriate remedies that would quell the aforementioned opposition, and that would compel those few parishioners to render due obedience to their own pastor. And in truth, if, according to the prescribed law, L. In fundo, ff. de rei vindicat, one should not indulge the malice of men, it seems that this principle should be even more strongly maintained, because if the opposition of some were to be considered a sufficient cause for removing a parish priest from his benefice, almost no pastor in the present perversity of times would be secure in the possession of his benefice. And thus, the condition of pastors would indeed be made worse than it already is, those who are burdened by the hatred of others, contrary to what is established.

[*Latin ed. p. 417*]

LUGANA 417 is in rule 22 of the law, in 0° - there - "No one ought to be prejudiced by the hatred of another." Whatever may be the case with all of this, if the Most Reverend Fathers, for the sake of souls, should judge it expedient to dismiss the parish priest, he readily offers himself, provided that a suitable pension is granted to him in a legally valid form, also valid in the civil forum, and not less than 30 livres for each month. This pension is, of course, recommended primarily because of the long service rendered to the Church in the laborious ministry of caring for souls, whether as an economist since the year 1852, or as a parish priest since the year 1857. Furthermore, the parish priest is entirely destitute of worldly goods; so much so that he does not even possess the title to his own property, nor is he able to establish it. Thirdly, his advanced age makes it so that the parish priest is unable to find means of honest support elsewhere. Finally, the parish priest's own infirmity is added, of which there is authentic and sworn testimony from a medical expert on April 6, 1891, in the records.

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DEFENSE OF THE BISHOP. On the other hand, it could be observed that the removal from the parish benefice rather has the character of a transfer, than of a deprivation; and that, in order to decree such a transfer, a fault is not required, but a sufficient reason suffices, as is stated in chapter "Quaesitum, de ver. perm. § fin." - there - "If the bishop has examined a sufficient reason, he can lawfully transfer persons from one place to another, so that those who are less useful in one place may be able to exercise themselves more usefully elsewhere." And this also applies even if the aforementioned reason does not exist through the benefice, as is further stated in chapter 10, on Resignation - there - "Sometimes, however, the prelate is compelled to withdraw from his governance because of the wickedness of the people, when the people are so stubborn that they cannot benefit from him, but because of their stubbornness, the more they resist, the more he is allowed to fail in judgment." And indeed, these regulations are justified; for the immovability of parish priests, which is established for this reason, is not so that priests may provide for themselves, but so that, with a tranquil mind and without anxieties, they may devote themselves wholeheartedly to the care of the flock.

[*Latin ed. p. 418*]

418 Lugana, which by a single word was introduced for the good of souls, ought not to remain for their detriment. Therefore, the parish priest sings outside the choir, when he wishes that faults be investigated, and that proceedings be instituted concerning them, in accordance with the order of law. But that the removal from the parish takes on the nature of a transfer and not of a deprivation, it is clearly evident from the fact that the Archbishop has omitted nothing to induce the parish priest to resign, having offered him, 1. the option of choosing between a chaplaincy and the care of one of two parishes, both vacant; 2. a pension of 150 livres upon relinquishing the parish; 3. finally, a pension equal to the purified income which the parish priest receives from his benefice. And it must be noted that, while the parish priest has alleged one or the other reason for rejecting the proposal made in the first place, and complains that a more substantial parish benefice was not offered to him, and finally appeals to old age and infirmity to excuse himself from the duties of the parish ministry: also, while he complains to the Sacred Congregation concerning the inadequacy of the pension offered in the second place, and declares himself ready to relinquish the parish if the pension is increased to 30 livres per month, he rejects the proposal of the pension made in the third place. From this, it appears that the same parish priest is not recommending himself either by sincerity or by a desire for peace, but rather is engaging in rivalry and contention with his parishioners. Furthermore, in this case, it seems that a just cause for removing the parish priest exists, and that this cause can be repeated from the hatred of the people. As for the justice of the cause, it

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suffices to recall what pertains to the matter, the official conclusions in the case of Milan. The removal from the parish, considered by the Sacred Office on March 23, 1889, states: "For it is well known that the title of a malevolent people is sufficient for the removal of a parish priest." See Zamboni, vol. 4, Conclusions of the Sacred Congregation, concerning the parish priest, § 14, regarding removal and deprivation; Bizzarri, Collect, ad Alben, on the removal of a parish priest unpopular with the people. The reason is because the common good must be preferred.

[*Latin ed. p. 419*]

LUCANA 419 vaio; Can. Scias 89 c. 7 q. 1 - ibi - "Nam utilitas pluris hominum praeferenda est utilitati vel voluntati unius." In facto autem, huiusmodi odium vere exsistit, et ipse parochus non negat, vel non potest negare, quamquam ille constanter studeat hoc odium ad malignitatem aliorum tribuere. Hoc quidem, vel ipse parochus, Sacra Congregatio Consilii (S. C. C.) iterato exposuit, ut licentiam absentiendi consequeretur, et Archiepiscopis iterato etiam S. C. C. informationem super his quaerenti, respondisse, causam odii plebis in loco subsistere, ex actorum fasciculo habetur. Ita sane in informatione diei 28 Februarii 1883: "Circa adiunctas preces parochi Cantoni, referre debeo nihil animadversione dignum circa eius vitae et mores huic curiae innotescere. Odii, quo eum populus prosequitur, causae repeti debent ex eiusdem indolis acerbitate et ex quibusdam simultatibus inter eum et populum suhort;is occasione aedificationis novae ecclesiae parochialis." Ita in litteris responsivis diei 3 Maii 1884: "Circa adiunctas preces parochi Cantoni, referre debeo quod populi aversio contra eum ita excrevit, prout et ipse fatetur, ut reconciliatio nullimode speranda sit..." Ita in litteris diei 6 Septembris 1884, quibus dispensatio super titulo S. Ordinationis postulabatur: dictus sacerdos Cantoni habet paroeciam in titulum sanctae ordinationis et ideo dimittere nequit, ut oporteret, neque eam repetere potest ob populi aversionem. Haec tandem data occasione confirmantur ab ipso Archiepiscopo in subsequis litteris S. C. C. transmissis; et ita prorsus esse convincuntur ex evidentia facti, quod a decem annis perdurat invariatum, quodque non solum residentiam, sed etiam accessum ad locum sui beneficii parocho vetat. Quibus animadversis, propositum fuit diluendum Dubium An et quomodo sit locus remotioni sacerdotis Hyacinthi Cantoni a paroecia loci Mutigliano in casu. RESOLUTIO. Sacra C. C. re discussa sub die 23 Iulii 1892 censuit respondere: Affirmative, proviso pro eius honesta.

[*Latin ed. p. 420*]

420. LUGANA, by means of support provided either without the care of souls, or through a pension, to be assigned by the prudent judgment of the Bishop. From which things are gathered: I. Bishops, having examined the necessary cause, can lawfully transfer from one place to another, pastors

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who may be able and willing to serve more usefully elsewhere, if they are less useful in one particular place. II. Pastors, if they cannot benefit the people, due to the malice and stubbornness of the people, sometimes ought to withdraw from them, so that, with peace of mind and without anxieties, they may devote themselves wholeheartedly to the care of the flock. III. Removals of pastors, carried out by Ordinaries for the sake of unjust hatred of the people, generally have the character of a transfer, and not of a deprivation. IV. The removal in a parish was caused by the hatred of the people; lest the utility of one be preferred to the utility or will of many. -~ss»fr o-g-gg™ SENIGALLIA. CONCERNING THE POSSIBILITY OF BUILDING. August 27, 1892. Through summary petitions. SUMMARY OF FACTS. At the end of the month of June of this year, the pastor of the church of St. Michael the Archangel in the village commonly called Monteportio, in the diocese of Senigallia, sent a petition to the Most Reverend Father, explaining: The parish church is so narrow that it cannot contain the faithful, even those from neighboring parishes, who seek it out because of its favorable conditions for those faithful: for the faithful of other parishes travel a distance of one kilometer to reach it, while they should travel six or seven kilometers if each were to seek out their own parish: in this parish, it can truly be said that there is only one Mass; for although another is celebrated in the public oratory, it is small, and is convenient for the patrons; and the majority of the faithful who gather there are forced to remain outside the door.

[*Latin ed. p. 421*]

SENOGALLIEN. In the year 421, Mass is heard in the public road where frequent travelers are present. The parish has always had a second Mass in the morning for the benefit of those working in the fields. Therefore, the petitioner requests that he be granted the faculty of saying two Masses on feast days, and that he be authorized to delegate this faculty, for reasons of health, to a priest who, called by the patrons, celebrates Mass in the aforementioned small oratory. The Bishop, to whom the aforementioned petitions had been presented according to custom, addressed the matter as follows: "All that which the petitioner has set forth in his supplication is true, both with regard to the multitude of people and the frequency of attendance at his church, since even the faithful of neighboring parishes come to and are compelled to attend it, and also with regard to the narrowness of the patronage of the noble family of the Counts of Montevecchio, in which they have the obligation of celebrating Mass on each feast day, as they have laudably fulfilled and continue to fulfill. "Approximately 1200 souls from the town and surrounding territory belong to this parish; the aforementioned chapel can hold approximately 150 faithful. From this, it follows that the same circumstances, or circumstances of equal weight, do not occur which are required for the granting of the faculty of saying two

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Masses, according to the Constitutions of Pope Benedict XIV. "If only one Mass were celebrated in the aforementioned town on feast days, I would undoubtedly have granted the faculty of saying two Masses to the parish priest; because, due to the multitude of people, the distance of the places, and the lack of priests, a true and real necessity would be verified, as required by the cited Constitution; for if only one Mass were celebrated in this parish, a portion of the faithful, and a notable portion, would not be able to fulfill the precept of the feast day. "But since two Masses are celebrated on feast days, one of which, as I said, is in the parish church by the parish priest, and the other by the chaplain of the Counts of Montevecchio in their own chapel, a doubt arises as to whether the license for saying two Masses can and should be granted. "It cannot be denied that the chapel, in which Mass is celebrated on feast days at the expense of the aforementioned House of Montevecchio, is..."

[*Latin ed. p. 422*]

422 SENOGALLIEN. The situation is such that the entire population, who wish to attend this Mass, cannot be accommodated, and a significant portion is forced to remain outside the church, experiencing considerable discomfort, especially during the winter months and due to distractions in the public square, where others gather who are not attending Mass. Consequently, it appears that this chapel, due to its limited size, is insufficient for the people to fulfill the precept of attending Mass on a feast day, not in the sense that it absolutely cannot provide satisfaction, but in the sense that it cannot provide satisfaction without causing significant inconvenience. Furthermore, it should be noted that this second Mass is celebrated rather for the benefit of the aforementioned Count, from whom the alms are received, than for the convenience of the people. Therefore, the question arises: whether, considering the absolute necessity of two Masses in the parish in question, the limited size of the chapel in which the second Mass is celebrated, and the considerable inconvenience to the people, and also the impossibility of finding another priest, it is permissible, with the requested permission, to grant the parish priest the dispensation. This question is left to the wise judgment of your Sacred Congregation; at the same time, I am informed by the prayers of the aforementioned priest that he should be favored, since I believe that the celebration of the second Mass in the parish church is necessary. "Synopsis of the Discussion." Furthermore, from what the Bishop has related, it seems clear that his request should be accepted. Indeed, the very law that prohibits the repetition of Mass expressly establishes an exception for reasons of necessity. Cap. "You have consulted title 41, book 3, Decret." As for what constitutes such a necessity, Lucidi states in "De Visit. SS. LL., vol. i, page 438: "This occurs when one parish priest is in charge of two parishes, or governs two populations that are very separate, or when the parishioners cannot all gather together at

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the same time to attend Mass, and otherwise, no other priest can be found." However, the Bishop testifies that it is indeed necessary to have a second Mass in the parish church, because the limited size of the church and the large number of people present do not allow the faithful to gather together for the sacred rite.

[*Latin ed. p. 423*]

SENOGALLIEN. 423: It is to be heard; but also, another priest cannot be found to celebrate the aforementioned second Mass. The difficulty, which arises from the fact that the chapel of the patronage of the Counts of Montevecchio is used on holy days, does not invalidate the alleged necessity, since it is also said to be very cramped, and moreover, with regard to the time when it is used, the patrons who are paying for the Mass would rather have it celebrated than the convenience of the faithful be considered. Therefore, the aforementioned difficulty should not be taken into consideration, as the Sacred Congregation of Rites has maintained in similar, and even more difficult, cases. Among the many cases that I could recall, it is sufficient to mention the most recent one from Barchinona, concerning the month of July just passed, in which permission to celebrate Mass on Sundays was granted, even though there were four public oratories in the parish where Mass could be celebrated. Nevertheless, it will be for Your Eminences, with the wisdom given to you, to decide whether, considering other circumstances, this is appropriate in this case, but first other remedies should be considered and tried. With these observations made, the question was asked as to how the prayers should be answered.

RESOLUTION. The Sacred Congregation, having considered the matter on August 27th, decided to respond. For the sake of expediency, and given the circumstances, the decision is left to the judgment and conscience of the Bishop.

LINGONEN.

CONCERNING THE APPLICATION OF THE SECOND MASS.

August 27, 1892. Through the summary of prayers.

A few days ago, the Bishop of Langres transmitted the following prayers to the Most Holy Father, which he then made his own, also imploring the same, due to the evident lack of resources of the church. The aforementioned petition is as follows:

SUMMARY OF THE MATTER.

[*Latin ed. p. 424*]

4 24 LANGRES. "Francis Xavier Cultot, parish priest of the place

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commonly called Bourmont, in the diocese of Langres, being prevented from celebrating Mass due to advanced age and a completely infirm state of health, entrusted the application of a Mass for the people to the vicar. The vicar, having the ability to celebrate twice on Sundays and feast days, celebrated one Mass for the people without payment, and the other with payment, according to the intention of the giver. "The aforementioned parish priest, now doubting whether he could have received this payment, earnestly prays for the obtaining of healing concerning the past, and that he may not come to the necessity of paying for Masses for the people in the future, and for the granting of the ability for the vicar to celebrate one Mass for the people, and the other with payment, until the parish priest himself remains unable to celebrate." Synoptic Discussion. Furthermore, the doubt from which the prayers repeat the cause seems to lack any foundation. It must be diligently distinguished, above all, between the application of a Mass, namely the second Mass, and the reception of alms or the stipend of the same Mass. The latter is entirely forbidden, as taught by numerous decrees of the Holy See, among which it suffices to mention Ventimiglia, December 19, 1835, and Cameracense, September 25, 1858, so that efforts may be made to implement this most salutary disposition. But concerning the former, concerning the application, namely the special fruit of the Mass, there appears no reasonable doubt as to why the priest cannot or should not apply the fruit of the aforementioned Mass, since the same reasoning applies to this point as to the first Mass, which certainly ought to be applied, although it has not been promised to anyone, as many theologians teach, among whom is Gury in his treatise on the Eucharist, n. 354, part III - there, "Although the priest has not promised a Mass to anyone, he must nevertheless make some application of its special fruit. The reason is, 1. because in his ordination he received from the institution of Christ the power to offer the Sacrifice, and consequently to apply its fruit;

[*Latin ed. p. 425*]

LINGONEN. "But that power would remain useless if the priest did not make use of it..." Indeed, if a priest, having been granted the faculty of celebrating two Masses, can and ought also to apply the second Mass, it is easily demonstrated that the priest, provided he receives absolutely no alms for such application, is not obliged to perform such an application gratuitously, but can, with it, fulfill another obligation. That he is not obliged to apply the second Mass gratuitously is clearly stated in the cited document of the Congregation, in the third question: "Whether vicars and other priests who do not have the care of souls, if at any time, by faculty, they celebrate twice in a day in a parish, in hospitals, etc., must they gratuitously apply [the Mass]?" The Sacred Congregation answered: "No, always with the prohibition of receiving alms for the second Mass"; and it gave the same

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answer in another question with these words: "Whether a parish priest who, in the same parish, by faculty celebrates twice on the same day, must he apply both Masses gratuitously?" Furthermore, that the same priest can fulfill another obligation with the application of the second Mass is also evident from the resolutions of this same Sacred Congregation. Thus, in Treves, concerning the application of the second Mass through intentions of prayers, a response was given on August 6, 1881, with the following words: "In my, that is, the Treves diocese, and in the adjacent Luxembourg diocese, there exists a certain religious association of priests and laymen, which is called the Marianum. The members of this association are obligated, for the repose of the soul of any deceased member, to celebrate one Mass, or to ensure that one is celebrated, as soon as possible after the death of the same. Many priests in my diocese are members of this association, among whom are not a few who, out of moral necessity, according to Apostolic authority, celebrate two Masses on Sundays and holidays... and they greatly desire that it may be permissible for them, on Sundays and holidays, in which they apply one Mass for the people by obligation, or, who are not parish priests, by applying a special intention, to fulfill another obligation by applying the second Mass for a deceased person who is a member of the association."

[*Latin ed. p. 426*]

426 LINGONEN. are, to be applied. Since this seems to be permissible only by apostolic dispensation to themselves, I humbly beseech Your Holiness to deign to grant this dispensation with great kindness. Furthermore, to the Bishop of Nancy and Toul, with similar wording and inquiry: can the Mass of obligation be offered for deceased confreres? On September 14, 1878, a similar answer was given: It is permitted. Finally, in Vivarient, on March 5, 1887, concerning the application of a second Mass, the following question was debated: whether a priest, bound by the statutes of the sodality to which he belongs, can, in order to fulfill this obligation, apply a second Mass on the day of obligation in such a case? The answer given was: affirmatively (1). From all of the above, it seems lawful for a priest, in his prayers, to be free to apply a second Mass for the purpose of relieving the parish priest from the obligation of the Mass for the people, provided that the perception of any alms is always excluded. However, if the aforementioned instances were not considered applicable to the present case by Your Eminences, I believe there are reasons that could persuade the granting of the requested favor, since the parish priest is poor, and is completely prevented from celebrating Mass due to advanced age and infirmity. Another, but perhaps more appropriate, consideration might be that the examples cited could be applied to the fulfillment of an obligation undertaken out of charity, while in this case, we are dealing with a Mass that the parish priest is obligated to offer for the people, and that too,

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by reason of a temporal remuneration or benefit. Thus, the priest would not receive any temporal emolument himself, but rather, the parish priest would profit from it. However, if this were to be admitted, it would easily be inferred that the aforementioned priest could profit from the alms of the second Mass not for himself, but for others: which seems entirely improper, and redolent of fraud against the law prohibiting the reception of the aforementioned alms. (1) The reference is found in Volume XX, page 35.

[*Latin ed. p. 427*]

LINGONEN. 427 Having noted these things, the question was raised as to what should be answered concerning prayers. RESOLUTION. The Sacred Congregation of the Council, having considered the matter on August 27, 18ng, decided to respond: "Considering the particular circumstances, during the absence of the parish priest, and under the condition that the Vicar not be able to receive any emolument from the Mass offered for the people, for the sake of the proclaimed word with the Most Holy [Sacrament]," it was granted. FROM WHICH IT IS UNDERSTOOD. It was granted, solely out of charity and considering the poverty of the parish priest, for a time, that the Vicar, by the application of one Mass, might fulfill the obligation which the parish priest has of applying a Mass for the people; and that, for the application of a second Mass, the Vicar might receive alms in that regard. FROM THE SACRED CONGREGATION OF INDULGENCES, ENGOLSMENSIS. Concerning a particular manner of obtaining consent from Ordinaries in establishing and aggregating Confraternities – concerning a special manner employed by Moderators of Archconfraternities in aggregations, and by Superiors of Religious Orders in the establishment of Confraternities – concerning the faculty of appointing Rectors of sodalities, Congregations, etc. – concerning the manner of receiving members into Confraternities, Congregations, etc. The following doubts are to be resolved for the Sacred Congregation of Indulgences. I. In establishing or instituting Confraternities and granting indulgences to them, as well as in Confraternities that are aggregated, Pope Clement VIII, in the Constitution "Quaecumque," prescribed more things under penalty of nullity, the observance of which, at least in the essential matters, Pope Pius IX, by Decree of January 8, 1861, again established. Among these is found: That the aggregation or institution of a Confraternity be done with the consent of the Ordinary of the place, and with him in writing, as evidence of the same. And the formulas given by Pope Pius IX clearly state: "The Confraternity... with the consent of the Ordinary of the place, who, at our request, has recently commended the piety and religion of the same Confraternity in writing... by these presents,

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we establish..." Also, "The Confraternity... considering the Bishop or Or-

[*Latin ed. p. 428*]

FROM S. G. INDULGENTIARUM, 428 dinarii, with the consent of the local authorities and with testimonial letters, by which this institution, piety, and religion are commended, we add and incorporate it into our Archiconfraternity. Hence, the following is asked: a) Is this condition sufficiently fulfilled when the Ordinary of the place does not give testimonial letters in advance, but only subscribes to the diploma of erection or aggregation transmitted to him with these words, or equivalent ones: "We have seen and consent," or "We have seen and have permitted its execution"? b) Is it at least sufficient for the Ordinary to append his subscription when, in the diploma of erection transmitted to him by the Superior of the Order, the words "we erect" or "we grant the faculty of erecting" are not read, and this subscription precedes the actual erection?

II. Since the Moderator of the Archiconfraternity or the Superior of the Religious Order is often far away, it has happened that the formula, signed and sealed by them, is deposited in the Chancery of the Bishopric or in some house of the Order, to be used by the custodian at the appropriate time for the erection or aggregation, adding the name of the Rector and the date to the formula. Therefore, the following is asked: Is an erection or aggregation carried out in this way valid and to be maintained?

III. By a decree of the City and the World, dated January 8, 1861, the Ordinaries were given the power to appoint, for the time being, parish priests as Rectors, Moderators, etc., of Confraternities. Hence, the following is asked: Has the Ordinaries, by the same decree, been able to appoint not only parish priests, but also almoners, chaplains of communities, or of pious places, with regard to Confraternities established in the churches themselves, independently of the parish priest, as is commonly done in Gallus, or even vicars, either because of the parish priest's excessive occupations or for other reasons?

IV. In many confraternities, congregations, or associations, e.g., those that depend on the Primaria, it is customary for those wishing to be admitted to the congregations, confraternities, or pious associations to first express their desire to the Council and Director of the congregation, who, after deliberation, if they approve the petition, set a date on which the applicants will be received with solemn rites and form. On that day, all gather in the church of the sodality, a discourse is given, the applicants recite aloud the formula of consecration to the B. V. M., and then the Rector, with an extended hand, says:

[*Latin ed. p. 429*]

429 or similar: "I, by the authority granted to me, receive you into the Congregation and bestow Indulgences and privileges, etc." It often hap-

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pens that, for a more solemn reception of this kind, the Rector invites an external priest who gives a homily, presides over the ceremony, and blesses the medals, rosaries, scapulars, and other objects which are to be given to the members; and he pronounces the words mentioned above. Most of the Rectors of Congregations believe that this can be done, either because they do not consider this ceremony to be essential, but rather believe that simply entering the names in the register is sufficient; or because they are convinced that the power to admit members can be delegated. Therefore, the following questions are raised: a) Whether such a rite should be considered essential? And, to the extent that the answer is negative, b) Whether the Moderator of the Association can entrust the task of carrying out the admission in this manner to another priest? c) Whether this can at least be done in the case where the statutes of the association, approved by the Ordinary, expressly grant him this power. Furthermore, the Sacred Congregation for Indulgences and Sacred Relics, after considering the doubts raised and hearing the opinion of one of the Consultors, decided to respond as follows: To question 1: Negatively; To question 2: It is not sufficient. To question II: Negatively. To question III: Affirmative. To question IV: To question 1: Regarding the act of reception into the sodality and the blessing of the scapulars, rosaries, etc.: Affirmative; Regarding the other ceremonies: Negatively. To question 2: Affirmative, if he has the power to delegate; otherwise, negative. To question 3: Affirmative. Given at Rome, from the Secretariat of the same Sacred Congregation, on December 3, 1892. FROM THE SACRED CONGREGATION FOR INDULGENCES, FR. ALOISIUS CARD. SEPIACCI, PREFECT. * L. S. ALEXANDER, Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 430*]

430 FROM THE SACRED CONGREGATION FOR INDULGENCES, CAPUA. Concerning the recitation of the Little Office of the Blessed Virgin Mary, and the abstinence from meat prescribed to the members of the Confraternity of the same Blessed Virgin Mary of Mount Carmel, who wish to enjoy the so-called "Sabbatine" privilege. To this Sacred Congregation for Indulgences, the following questions requiring resolution are presented. I. Are the faithful received into the Confraternity of the Blessed Virgin Mary of Mount Carmel, who desire to enjoy the aforementioned Sabbatine privilege, if they know how to read well, able a) by their own choice to select, among the daily recitation of the Little Office and the abstinence from meat on each feria IV, together with stricter observance of the fasts and vigils prescribed by the Church, or rather b) are they bound exclusively to the aforementioned recitation of the Office? II. Does this abstinence from meat prescribed on each feria IV to those who wish to enjoy the aforementioned privilege also exclude the use of eggs and dairy products? III. Can those who observe this abstinence for the aforementioned purpose avail

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themselves of the Indult of the Crucifix, so that it may be permitted to them to mitigate the strictness of this abstinence, either on each feria IV, or on vigils and other prohibited days, without losing the right to the Sabbatine privilege? IV. Can those who lose the aforementioned privilege avail themselves of the indult or dispensation, which is usually granted during the time of Lent, to allow the consumption of meat? The Sacred Congregation for Indulgences deemed it necessary to respond to these questions. To I. To the first part, negatively. To the second part, affirmatively. To II. Negatively. To III. Negatively. To IV. Negatively. Given at Rome, from the Secretariat of the aforementioned Sacred Congregation, on the 3rd of December, 1892. FR. ALOISIUS CARD. SEPIACCI, PREFECT. L. * S. f ALEXANDER, ARCHBISHOP OF NICOPOLIT, SECRETARY.

[*Latin ed. p. 431*]

FROM 431. A GRANT OF INDULGENCES. An indulgence of fifty days is granted to those who recite the following prayers: "Lord, deign to repay..." Brno, Most Reverend Father, To the Most Reverend Cardinal Aloysius-Masella. With profound humility, I prostrate myself before Your Eminence, and humbly implore Your Eminence to grant a certain indulgence to all the faithful who, for the sake of their benefactors, shall recite the following prayer. "Lord, deign to repay to all who do good to us, for the sake of Your name, eternal life. Amen." By the grace of Our Most Holy Lord Pope Leo XIII, in an audience held on December 17, 1892, by the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, a benevolent indulgence of fifty days, applicable also to the deceased, has been graciously granted to all Christians of both sexes, who, at least with a contrite and devout heart, shall recite the aforementioned prayer, to be obtained twice in a day. This grant is valid forever, without any brief being required, notwithstanding any contrary provisions. Given at Rome, from the Secretariat of the aforementioned Sacred Congregation, on December 17, 1892. FR. ALOISIUS CARD. SEPIACCI, Prefect. L. S. A. Archbishop of Nicopolis, Secretary.

[*Latin ed. p. 432*]

432 FROM THE SACRED CONGREGATION OF RITES IN NAPLES. Decree of Beatification and Canonization of the Venerable Servant of God, Mary Laurence Longo, foundress of the Hospital of the Incurables in Naples and of the Capuchin Nuns. The exceptional reputation for holiness, which the Servant of God, Mary Laurence Longo, foundress of the Capuchin Nuns, acquired even while she was still living, especially through the fervent exercise of charity with which she converted all her possessions, obtained from the abundance of her fortune, to the aid of the poor, the relief of the sick, and the salvation of the lost, has, after her death, which occurred in Naples in the year 1542, spread far and wide,

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and has persisted until this very time, to the point that an investigation into this same reputation for holiness, as well as virtues and miracles, has been undertaken in the ecclesiastical court of Naples. After this was properly carried out and presented to the Sacred Congregation of Rites, the Most Holy Pope Leo XIII granted permission that the question of whether or not to sign the commission for the introduction of the cause of this same Servant of God could be considered in the ordinary meetings of the aforementioned Sacred Congregation, without the intervention or vote of the Consultors. Hence, I, the undersigned Cardinal, Prefect of the aforementioned Sacred Congregation, at the urging of the Reverend Father, Father Mauro a Leonissa, a Professed Priest and General Postulator of the Causes of Beatification and Canonization of the Servants of God of the Order of the Friars Minor of the Holy Francis of Assisi, the Capuchins, and after considering the postulatory letters from the Most Reverend Archbishops of Naples and Benevento, as well as from many other Holy Prelates, and other men distinguished by both ecclesiastical and civil dignity, in the ordinary meeting of the Sacred Congregation of Rites, held on the day indicated at the Vatican, the following question for discussion was proposed: "Whether the Commission for the Introduction of the Cause should be signed in this case and for this purpose?" And the Sacred Congregation itself, after mature deliberation, and after hearing the voice and the written opinion of the Reverend Father, Doctor Augustine Capram, Promoter of the Holy Faith, decided to respond: "Affirmatively," that is, that the Commission should be signed, if it pleases the Most Holy Father, on August 30, 1892. Having related all of this to His Holiness, Pope Leo XIII, through myself, the undersigned Cardinal, His Holiness...

[*Latin ed. p. 433*]

Having approved the decree of the Sacred Congregation, as per the regulations of S. G. Rituum 433, it was deemed fitting to sign, with my own hand, the commission for the introduction of the cause of the Venerable Servant of God, Mary Laurence Longo, on the aforementioned day, September 4th of that same year.

C. CARD. ALOISI-MASELLA, Prefect of the Sacred Roman Congregation.

L. S. S. VINCENTIUS NUSSI, Secretary of the Sacred Roman Congregation.

BLESIS, or BLOIS.

Decree of Beatification and Canonization of the Venerable Servant of God, Charles de Blesis, Duke of Britain, now called Blessed.

Less than a decade had passed since the death of the aforementioned Venerable Servant of God, Charles de Blesis, Duke of Britain, and already his reputation for holiness, virtues, and miracles had spread so widely

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among the faithful that he was commonly called Blessed and Saint. Although such devotion was not approved by Pope Urban V, because it anticipated the judgment of the Apostolic See, nevertheless that Pontiff and his successor, Gregory XI, by Apostolic Letters, ordered that a process be conducted regarding the fame of the holiness, virtues, and miracles of the aforementioned Venerable Servant of God, so that his solemn beatification might be achieved.

When such a cause, due to the ravages of time and the vicissitudes of public affairs, had been delayed until the present time; the present Most Reverend Bishop of Blesis, desiring to comply with the wishes of many Bishops and Most Reverend Cardinals and dignitaries of the Holy Roman Church, as well as of all the faithful of Britain and France, humbly requested from the Most Holy Pope Leo XIII that the following question be proposed for discussion at the meetings of the Ordinary Congregation of the Sacred Congregation for Religious: "Is it fitting to establish a commission for the resumption of the cause of the aforementioned Servant of God, in the present state and circumstances in which the cause itself is found, in this case and for this purpose?"

This question, having been proposed by me, the undersigned Cardinal, Prefect of the Sacred Roman Congregation, and promoter of this cause, at the Ordinary Congregation of the aforementioned Sacred Congregation, held on the day indicated at Vatican, the Sacred Congregation, after mature deliberation, and after hearing the Reverend Father D. Augustine Caprara, Promoter of the Holy Faith, decided to respond: Affirmative. Acts, Volume XXV, page 95.

[*Latin ed. p. 434*]

434 FROM THE SACRED CONGREGATION FOR RITUAL, or to indicate that the Commission is to be established if it pleases the Most Holy Father. August 30, 1892. Having related all these matters to His Most Holy Lord, Pope Leo XIII, through myself, the undersigned Cardinal, His Holiness, having approved the Decree of the Sacred Congregation, deigned to sign the Commission for the Re-examination of the Cause of the Venerable Charles of Blois, aforementioned, in its present state and terms, in which the Cause itself is now found. September 4th of the same year. C. CARD. ALOISI-MASELLA, Prefect of the Sacred Congregation. L. * S. VINCENTIUS NUSSI, Secretary of the Sacred Congregation. PISANA. Decree of confirmation of the worship rendered from time immemorial to the Servant of God, Agnel of Pisa, of the Order of Friars Minor of Saint Francis, now blessed. Among the first companions and disciples of the Seraphic Father, Agnel of Pisa stands out, distinguished by noble birth, but far more distinguished by the sanctity of his life and his virtues. He progressed so much in the way of perfection under the discipline and instruction of Saint Francis himself, that he was first sent to Lutetia, among the Parisians, and then to

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England, by the same Holy Founder, to serve as a wonderful example to all the students of the Seraphic Order. Therefore, it happened so quickly that he ascended to heaven, that while men venerated him as a saint while he lived, they might honor him with heavenly honors after his death. Hence, the devotion of the faithful towards Blessed Agnel arose from his glorious death, and has persisted, not only before the impious King Henry VIII of England, but also after so many and such changes in human affairs, until the present day, especially in Pisa and among the Order of Friars Minor of Saint Francis. Therefore, at the urgent request of the Most Reverend Archbishop of Pisa, together with the Most Reverend General Minister of that Order, and since, by myself, the undersigned Cardinal, Prefect of the Sacred Congregation for Ritual, the Cause was presented in the Ordinary Sessions of the Sacred Congregation, and after being discussed on the day indicated, with the members assembled at the Vatican, the following question was proposed for consideration: "Whether the opinion of the aforementioned Most Reverend Archbishop of Pisa, regarding the worship rendered from time immemorial to the Servant of God, Agnel of Pisa, or regarding the exception made from the Decrees of Pope Urban VIII,..."

[*Latin ed. p. 435*]

435. From the Sacred Congregation of Rites: "Is the matter to be confirmed in this case, and with regard to the effect of which we are speaking?" The Most Reverend Fathers, Prefects of the Sacred Congregation charged with safeguarding the Rites, having carefully considered all matters, and having heard the voice and the written statement of the Reverend Father Augustine, Promoter of the Holy Faith, decided to respond: "Affirmatively, that is, the matter is to be confirmed." August 30, 1892. Subsequently, after a report was submitted by myself, undersigned, to His Most Holy Eminence, our Lord Pope Leo XIII, His Holiness approved and confirmed the Decree of the Sacred Congregation on September 4th of the same year. C. CARD. ALOISI-MASELLA, Secretary of the Sacred Congregation. L. S. VINCENTIUS NUSSI, Secretary. FROM THE SACRED CONGREGATION OF THE HOLY OFFICE: January 18, 1893. Because many faithful from throughout the Catholic world are requesting a jubilee for Pope Leo XIII, the following question was posed to the Apostolic See: I. Whether pilgrims, during their journey, are to be excused from the law of fasting and abstinence. II. Whether, for those who reside in Rome, it is permissible to observe, with regard to abstinence, the laws and indulgences proper to their own nation. On Thursday, January 18, 1893. His Holiness, Pope Leo XIII, through the powers granted to the Most Reverend and Most Illustrious Cardinal, Secretary of the Supreme Universal Inquisition, with a benevolent disposition, and in accordance with the votes of the Reverend Consultors of the Holy Office, granted the grace requested in all things, without any

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impediment. I. MANCINI, Secretary of the Sacred Congregation.

[*Latin ed. p. 436*]

436 FROM THE HOLY CONGREGATION OF THE INDEX. Feast Day V, January 26, 1893. The Holy Congregation of Most Eminent and Reverend Cardinals of the Holy Roman Church, appointed by the Most Holy Pope Leo XIII and the Holy Apostolic See to oversee the Index of books containing pernicious doctrine, and their prohibition, expurgation, and permission throughout the Christian Republic, having met in the Apostolic Palace at the Vatican on July 14, 1892, decreed and decrees the following works to be included in the Index of Prohibited Books, or otherwise condemned and prohibited:

Graf Arturo. — *Miti, Leggende e Superstizioni del Medio Evo*. Vol. I. *Il mito del Paradiso terrestre.* — *Il Riposo dei dannati.* — *La Credenza nella fatalità.* — Turin, Ermanno Loescher, 1892. *Storia della prostituzione desunta dalle opere di Parent, Duchatelet, Dufour, Lacroix, Rabuteaux, Lecour, Taxil, Flaix ed altri celebri autori.* — Casa Editrice-Tipografica Edoardo Pernio, Rome.

Conte Goblet d'Alviella. — *L'idée de Dieu d'après l'Antropologie et l'Histoire.* Conferences faites en Angleterre sur l'invitation des administrateurs de la Fondation Hibbert. — Paris-Brussels, 1892.

Morando Giuseppe. — *Ottimismo e Pessimismo.* — Milan, Typographia Lodovico Felice Cagliati, Via Pantano n. 26, 1890. Decree of the Holy Office, Feast Day IV, November 16, 1892. (The author commendably submitted himself, and the work was disapproved).

1 nomi eucaristici. Schizzi di meditazioni. — Milan, L. F. Cagliati Editore, Via Pantano n. 26, 1892.

Ibid. Decree. (The author commendably submitted himself, and the work was disapproved).

Given in Rome, this 30th day of January, 1893.

CAPPELLUS. Cardinal MazzeLLA, Prefect.

With the Seal:

Fr. Hyacinthus Frati, O.P., of the Secretariat.

[*Latin ed. p. 437*]

437 APPENDIX III. EXHIBITING THE ACTS OF THE APOSTOLIC SEE; WHICH ARE EITHER ALREADY ESTABLISHED, OR WHICH HAVE BEEN PROMPTLY ADDRESSED BY THE MODERATOR OF THE EPHEMERIDES. From the Instruction of the Sacred Congregation for the Propagation of the Faith – February 13, 1806. – (Addressed to the Apostolic Vicariate of Tung-king, Orient.) It is possible to partake of the Communion even after having tasted salt in the rite of Baptism. Although it may seem that fasting is broken when the salt is tasted by the catechumens during

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the rite of Baptism, there is nonetheless no doubt that they can, and indeed should, be admitted to the Holy Communion, having received Baptism; indeed, the Church, which has the power to dispense from the general law of Eucharistic fasting, has itself granted dispensations to those who, outside of the danger of death, wish to receive the Holy Communion in particular cases, as is prescribed in the Roman Ritual, where the rite for conferring Baptism upon adults is set forth. Sacred Congregation for the Propagation of the Faith. – Session of August 1840. Doubt concerning the Sacrament of Confirmation. While a certain missionary (endowed with an Apostolic Indult to administer Confirmation) was administering the Sacrament of Confirmation to several Christians, he was frightened by pagans standing in the atrium. Therefore, omitting the first laying on of hands, and reading the prayer *Omnipotens* up to the words *de coelis*, and neglecting the commemoration of the seven gifts, he pronounced the formula: *Signo te, etc.* The question is asked whether, considering the Encyclical of Benedict XIV, and the scandal that would arise if these Christians were to be confirmed again under this condition, it is possible to be left in good conscience? Answer: The Sacrament of Confirmation is not to be repeated under this condition. Sacred Congregation for the Propagation of the Faith. – Session of September 12, 1821. – Apostolic Vicariate of Sutchuen. Doubt concerning the powers of the Pro-Vicar, when the See is vacant. Whether the Apostolic Pro-Vicar, when the See is vacant, by reason of his office as Pro-Vicar, has the power to: 1. Confer the Sacrament of Confirmation. 2. Delegate missionaries, so that they may administer the same Sacrament. And to the extent that the answer is negative:

[*Latin ed. p. 438*]

438 APPENDIX III. 3. Whether such a Sacrament ought to be repeated for those who received it, solely supported by the license of the Provincial. — And 4. Whether one should petition the Holy See to deign to grant this faculty. R. Regarding the first and second parts of the question: negatively. — Regarding the third: it should be referred, after removing any scandal. — Regarding the fourth: one should petition the Holy See for the requested faculty, only when the See is vacant. S. C. de Prop. Fide 1819. — Vic. Ap. Siamen. A question regarding wine made from wild grapes. There are wild vines in Siam; the grapes are of remarkable size (I would hardly have believed it unless I had seen it with my own eyes); one bunch can yield at least ten *sagenas* of wine. Twenty, thirty, and even more bunches are found on a single vine. When I first arrived in Siam, two young men came to me, carrying two bunches of this kind on their shoulders; after pressing them, I made eleven *sagenas* of wine; the remainder I discarded. I did not have much confidence in this experience at the time. After eight and ten years, wishing to taste some of the last *sagena*, I found the color, aroma, and

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taste to be good; but when our deceased Bishop said that these were not true vines, I could not contradict him, although I could not agree with him. The only difference I find is that the grains or seeds of the Siamen grapes are much larger and of a different shape than those of European grapes; they are of the same shape and form, and of the same size, as the grains of coffee; and it ferments well over several days. This year, they sent me twenty *sagenas*; I consumed part of it due to my stomach and frequent illnesses, and I gave the rest freely to other sick people, and it benefited us. Because they do not ripen sufficiently due to the effect of the sun, sugar must be added, which is perhaps also necessary for preserving it for a longer time. However, they are found in some places that are naturally sweet. I earnestly request a decision on whether we can use this wine in the celebration of Mass. R. From what has been presented so far, it does not appear that the liquid in question is true wine; therefore, it is not permissible to use it in the sacrifice of the Mass, until it has been judged otherwise. S. C. de Prop. Fide • C. P. pro Sin. 31 Aug. 1834. Vic. Ap. Coreae. A question regarding wax in the celebration of Mass. Can I use wax from a certain tree in the celebration of Mass? The wax of this species is quite similar to common wax; it is easily found.

[*Latin ed. p. 439*]

APPENDIX III. 439. It is costly and precious, for the wax, extracted from honeycombs, is brought from the most distant provinces, and can only be obtained at great expense.

Response: We request that His Holiness grant the grace to allow, under the existing circumstances, the use of wax from a certain species of tree in the Sacrifice of the Mass, at the discretion and conscience of the priest.

His Holiness, after due consideration, graciously granted the requested grace.

Sacred Congregation of the Holy Office, August 25, 1880.

Concerning priests administering the Sacrament of Confirmation. In these regions (Tibet, Northern Ogdhai, Eastern Manchuria, Mongolia), priests delegated to administer the Sacrament of Confirmation ordinarily administer this Sacrament privately to infants and adults who are dying, before a few people, and to those same individuals who have already been warned beforehand, or, preferably, who know that the minister administering the Sacrament is the Bishop. Therefore, since this warning seems to lack its primary purpose in this case, and, on the other hand, it is somewhat burdensome, it is requested that the obligation to warn each time be imposed only when the priest solemnly administers this Sacrament (which is and will be entirely rare); but for private administration, it suffices to instruct a number of Christians on several occasions about the ordinary and extraordinary minister of Confirmation, for example, by reading the written testimony of the delegation once a year in each

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Christian community.

Response: According to the request.

Sacred Congregation of the Holy Office, January 14, 1885.

Patriarch of Jerusalem. Doubt concerning the validity of Confirmation. In this Latin Patriarchate, the Sacrament of Confirmation administered by schismatic priests of Palestine to infants immediately after Baptism has always been considered valid; and therefore, if such individuals convert to the Catholic faith, they are not confirmed again.

Now, it sometimes happens that infants, whose father is Catholic and whose mother is schismatic, after being baptized according to the Latin rite, are secretly taken by the mother to a schismatic priest, who rebaptizes and confirms them. Furthermore, it sometimes happens that parents who have become newly Catholic, whose children have been baptized by a priest of the Latin rite, return to schism, and then take their children to a schismatic priest to be rebaptized, and the priest rebaptizes and confirms them; afterwards, repenting, they return to the Catholic faith with their children, who have been thus rebaptized and confirmed.

The question is raised whether the Sacrament of Confirmation, administered to infants immediately after their sacrilegious rebaptization, is valid.

[*Latin ed. p. 440*]

440 APPENDIX III.

R. It is not advisable that those who have already received Confirmation, in cases such as this, be anointed again by the Bishop, unless they are to be promoted to the Tonsure and Orders, or unless they themselves or their parents request it, and unless, after an inquiry into the manner in which Confirmation was conferred, it is found that the oil stock was used, in which case the Sacrament of Confirmation is conferred secretly and under condition.

Sacred Congregation of the Holy Office, April 10, 1861.

Vicar Apostolic of Tchely.

Doubt concerning the conferring of Confirmation upon a neophyte.

Whether Confirmation should be given to those neophytes who, having been baptized at the point of death, are entirely uninstructed, and, weakened by illness, are unable to be instructed?

R. The Sacrament of Confirmation should not be conferred upon such ailing neophytes, whom a missionary believes capable of receiving Baptism, unless at least they have some intention of receiving Confirmation in order to add strength to their soul.

Sacred Congregation of the Holy Office, December 2, 1850.

Vicar Apostolic of Sandwic.

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Doubts regarding godparents, etc., to be used in the conferring of Confirmation.

1. Until now, we have not appointed godparents, or if at times we have appointed them, we have not observed the rubric: "Adults, however, or others of mature age, shall place their foot upon the right foot of their godfather."

2. We do not use a stock. It would be very difficult, if not impossible, to obtain one. We are content to wipe the forehead with a cloth or with oil.

3. We take care that adults confess before receiving this august Sacrament.

R. Regarding the appointment of godparents in the conferring of Confirmation, and the observance of the rubrics of the Roman Pontifical, which are neither to be altered nor omitted, unless for a grave reason; and regarding the meaning: "Let the godfather place his right hand upon the right shoulder of the one being confirmed."

2. If, as is said, stocks are very difficult to obtain, the practice mentioned here may be tolerated.

3. This practice is to be considered highly in conformity with the prescribed practice.

4. The Roman Pontifical concerning Confirmation is therefore to be praised.

[*Latin ed. p. 441*]

APPENDIX III. 441 S. C. S. Officii 12 Februarii 1851. — Vicarius Apostolicus Coreae. Dubium de baculo et mitra adhibenda in administratione Confirmationis. "Tuguria Goreanorum sunt parva valde, et tam parum alta, ut homo in iis vix stare possit: usque modo saepissime non potui administrare Sacramenta cum baculo et mitra. Hoc licitum sit mihi in posterum absque scrupulo."

R. "Adstante causa, posse privatim confirmare absque mitra et baculo pastorali, adhibita stola."

S. C. S. Officii 22 Iulii 1706. — Missio Aethiopiae. Dubium quoad vinum utendum in celebratione Missae. "Utrum liceat celebrare cum vino facto ex uvis passis?"

R. "Licere dummodo liquor ex colore et gusto dignoscatur esse verum vinum."

S. C. S. Officii 25 Iunii 1852 — Vicarius Apostolicus Coimbaturen. Dubium quoad farinam pro pane eucharistico. "In hac regione difficillimum est conficere panes eucharisticos farina proprie dicta; unde consuetudo orta est (exceptis forsitan locis in quibus facile haberi potest farina ex Europa) panem conficiendi ex granis contritis et per aliquas horas in aqua infusis, non tamen usque ad corruptionem. Quae grana manibus comprimunt et, ex materia alba advehentia, panes conficiunt

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ferro calido, modo in Europa consueto. Ali quod habeo scrupulum de tali confectione. Nam 1. si panem confidentes maximam attentionem non adhibeant, triticum relinquere possunt in aqua usque ad corruptionem, saltem inceptam. 2. Tota substantia tritici non mihi videtur in tali pane contineri. 3. Talis materia mihi videtur appropinquare amidum, ex quo practice panis eucharisticus confici non debet. Aliunde de farina ex Europa adveniente valde dubitandum est utrum pura sit vel non, cum omnibus notum sit mercatores mixturas innumerabiles facere. Unde humiliter quaero: 1. Utrum licita sit supradicta confectio panis pro Missa? 2. Si non liceat, quid debeam facere, presertim cum illa consuetudo vigeat in diversis partibus Indiae."

R. "Affirmatively; curet tamen, si fieri possit, Vicarius Apostolicus ut frumentum ex quo panis eucharisticus conficitur, non contundatur solummodo, sed apto instrumento in farinam redigatur, quae deinde cribro exacte purgetur, et panis ex eadem conficiatur, modo in Europa usitato."

— Sanctissimus Dominus Noster Pius, Papa IX., resolutionem Emorum approbavit.

[*Latin ed. p. 442*]

442 APPENDIX III. From the Sacred Congregation of the Holy Office, May 9, 1821 – Concerning Missions in Kentucky. A question regarding the administration of the Eucharist to the sick. Those who are habitual sinners, relapsed, negligent in their salvation, and have abandoned the Sacraments for years, are afflicted by illness. They call a priest, giving certain signs of infirmity, though perhaps also of soundness; must these Sacraments be absolutely administered to them, given the danger of death? Which should be denied? What if such a sick person has not yet received First Communion?

Answer: The missionary should consult approved authors. However, he should remember that, at the point of death, any faithful person who gives signs of repentance can, by any priest, be absolved from all sins and censures, and no one should then be repelled from receiving the Sacraments, namely, Extreme Unction, if they are sick, and the Most Holy Eucharist, unless the custom is objected to, by which it is denied to those who are about to suffer imminent punishment. On this custom, nothing is stated here from the Sacred Congregation of the Holy Office of April 10, 1861.

– From the Apostolic Vicariate of Tchely Meridio-Orient. A question regarding the administration of the Eucharist to a neophyte. Should the Eucharist be administered to a neophyte, who, being baptized by Christians at the point of death, is ignorant [of the faith]?

Answer: The Eucharist should not be administered to these neophytes, unless they discern the spiritual food from the corporeal, by knowing and believing in the presence of Christ in the Holy Host. From the Sacred Con-

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gregation of the Holy Office, February 22, 1888.

– Concerning the power to bless wine. Also, Apostolic Vicars possess the power to bless wine, which Constitution *Declarasti* of Benedict XIV grants to Bishops. Do Apostolic Vicars enjoy the privilege of granting the power to bless wine, which is granted by the Constitution *Declarasti* of Benedict XIV to Bishops?

Answer: Affirmative, if the words are spoken with due reverence. – Approved by the Most Holy [Father]. From the Sacred Congregation of the Holy Office, May 14, 1681.

– From the Apostolic Vicariate of Tunkin. A question regarding portable altars. Is it permissible to keep portable altars without the relics of the Saints, because: 1. In Tunkin, persecution is raging; many altars have already been seized by infidels, and sacred relics have been trampled upon, etc. 2. Because...

[*Latin ed. p. 443*]

APPENDIX III. 443. Therefore, they become so thick and dense that a repository for relics cannot be inserted within them, which creates a greater inconvenience for those who transfer sacred furnishings from one place to another. For in Tunquin, the apostolic missionaries, and then the indigenous parish priests, rarely remain in one village for three or four days, but almost daily, after the celebration of Mass, they depart, usually before dawn, to another village.

3. Since the faculty is granted to celebrate on an altar without relics, therefore also to consecrate [the altar] without relics," which, if not yet granted, should be requested to be granted. R. Having considered the reasons presented, a petition should be made to the Most Holy Father for a dispensation. - The Most Holy Father approves. S. C. S. Officii, May 14, 1779. — Doubts regarding the application of Masses for Turks. The Turks of Ghocim in Moldavia, having lost or had stolen some of their possessions, send certain offerings to the Conventual Minor Friars, who are located nearby, urgently requesting through their messenger that, with the help of Saint Anthony of Padua, whom the Turks of Camenec believe to be alive, they may recover their lost possessions. Therefore, three questions are to be considered:

— 1. Can the Minor Friars accept offerings from the Turks?

— 2. Can Masses be celebrated for the Turks?

— 3. Can they accept those offerings, under the title of alms, for the celebration of a Mass at the altar of Saint Anthony, according to the desires or intentions of the giver?

R. The Most Holy Father decided that the following should be answered to all the questions:

According to the circumstances of the case presented, it is not permissi-

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ble, and this must be indicated by an Instruction.

INSTRUCTION. The Conventual Minor Friars of Camenec in Moldavia, located near Turkish territory, intending to present certain doubts to the Roman Congregation of the Council of Trent, appropriately and prudently explained the case and the circumstances of the case, from which the doubts themselves arise, so that the legitimate meaning of the doubts may be more easily understood, and a more certain and appropriate answer may be given to the doubts themselves, adapted to their circumstances. In this manner, they prefaced their statement: The Turks of Ghocim in Moldavia, having lost or had stolen some of their possessions, sometimes send offerings to the Conventual Minor Friars of the Convent of Camenec, who are located nearby, urgently requesting through their messenger that, with the help of Saint Anthony of Padua, whom the Turks of Camenec believe to be alive, they may recover their lost possessions. "From this, a threefold question arises," (the aforementioned Fathers stated): indeed, a question arises from...

[*Latin ed. p. 444*]

444 APPENDIX III. Having described the facts and circumstances; and therefore, the Holy Congregation decided that a response should be given to the proposed questions, not in the abstract, as is commonly said, and separate from those same circumstances; but concretely, and related to the proposed facts and their circumstances. The threefold question, or the three doubts, that the Fathers subsequently proposed were these: I. Can the Minor Friars lawfully receive offerings from Turks? — II. Can they receive those offerings under the title of alms for celebrating Mass at the altar of St. Anthony, according to the giver's request or intention? — III. Can the Minor Friars celebrate Mass for Turks? Therefore, after the customary preliminary examination, the Holy Congregation decided that nothing of what is proposed in the doubts, according to the proposed facts and circumstances, is permissible. Furthermore, the Holy Congregation is confident, and is certainly persuaded, that the aforementioned Fathers will, in practice, conform exactly to this judgment, which they themselves, out of due reverence for the Holy Apostolic See, requested in order to alleviate the anxieties of their own consciences. It is fitting to believe that these men, being religious men laboring in the Lord's vineyard for the salvation of souls, will understand, and indeed it is most fitting, and indeed they ought, according to the Apostle's admonition, to abstain from every kind of evil: which evil is not merely a species, but the very thing itself, as is manifest in the circumstances of the case in question. For it immediately becomes apparent the foul, indeed even ridiculous, superstition of the Turks, by which they seek the intercession of St. Anthony of Padua, believing him still to be living; to whom they send offerings solely in order to obtain a temporal benefit; and by which they often abuse even the most sacred sacrifice of the Mass,

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which is nothing more august in the Church of Christ, according to their own request and intention, which is certainly not right and intrinsically superstitious. Therefore, the aforementioned Fathers should take care not, by receiving offerings from Turks, or by offering Masses for them, to become participants in their superstition, and to pollute their own consciences with the very superstition of the Turks, as the Apostle commanded to the faithful who know these things, so that they may not be a scandal and offense to them, and so that they may give the Turks an opportunity to persist in their errors and superstitions. Holy Congregation of the Holy Office, April 19, 1837. — Doubt concerning the application of Mass. Whether it is permissible or ought it to be celebrated a Mass, and to receive alms for it, for a Greek schismatic, who earnestly prays and insists that the Mass be offered for him, whether he is present in the church or remains outside the church? Answer: According to what has been explained, it is not permissible, unless it is expressly established that the alms are offered by the schismatic in order to obtain conversion to the true faith.

[*Latin ed. p. 445*]

APPENDIX III. 445 Secret Consistory, July 12, 1865. — Can the Mass be applied for the intention of non-believers? Whether it is permissible for priests to celebrate Mass for the intention of Turks and other non-believers, and to receive alms from them for the application of the Mass? Answer: Affirmative, provided that there is no scandal, and nothing special is added to the Mass, and, with regard to intention, it is certain that no evil, error, or superstition is present in those non-believers who offer alms. Secret Consistory, April 7, 1875. — Concerning the application of the Mass for those who die in manifest heresy. 1. Is it permissible to offer the Mass for those who die in manifest heresy, especially when such an application would be known? 2. Is it also permissible in the case where such an application of the Mass is known only to the priest and to the one who gives the alms? Answer: To both questions, the answer is negative. Penitentiary Apostolic Congregation, April 6, 1742. — A doubt concerning alms for Masses. Missionaries and Catholic pastors in Holland, and in other regions subject to the dominion of heretics and non-believers, humbly present to Your Holiness, with the kiss of the foot, that it has come to their knowledge a copy of a Brief of Your Holiness published at Saint Mary Major on June 30, 1741, beginning with the words « How much care must be taken », in which it is strictly prohibited for clerics and priests of every kind who receive alms or stipends for celebrating Masses, to be able to entrust the celebration of those same Masses to other priests with a smaller alms or stipend, under pain of suspension, reserved to the Apostolic See, as is more fully explained in the aforementioned Brief. However, Holy Father, in those regions under the yoke of heretics or non-believers, there are no ecclesiastical benefices or certain revenues for the support of life, so that generous alms and stipends

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for the celebration of Masses are given to Catholic pastors and missionaries by pious faithful, so that they may receive support from these stipends and alms, as mentioned above, in the absence of benefices or certain ecclesiastical revenues. Sometimes, however, these same stipends and alms are given for the following reasons:

[*Latin ed. p. 446*]

446 APPENDIX III. There exists affection, or gratitude, towards those missionaries and pastors, but not without regard for the aforementioned support; often, especially at funerals, anniversaries, and major feasts, the aforementioned stipends and alms for Masses are given in the form of a single honorarium, which the faithful are accustomed to offer out of pious devotion during the Sacraments of Penance and Holy Communion. Given these circumstances, the pastors and missionaries have felt no scruple in retaining a portion of the stipends and alms for themselves, and in requesting from other needy priests, who assist under the name of sacristans, or coadjutors, and who perform the duties of the aforementioned missionaries and pastors when they are absent, or hindered by illness, or in other similar necessities; if the missionaries and pastors were to be obligated to hand over the entire alms received for the celebration of Masses to the priest who offers the Sacrifice, or if they themselves were to be deprived of adequate support, or if they were to be unable to give a portion of said stipend or alms to the priest celebrating, especially for the aforementioned necessities of sacristans and coadjutors, such support would be lacking in those regions in which certain revenues and benefices are insufficient for the support of the ministers of the Church. Therefore, having carefully considered these and other particular circumstances, the most devoted undersigned petitioners are certain that the cases mentioned above are not included in the aforementioned brief, and that they can safely continue the custom and practice observed up to now, namely, in these cases, to retain a portion or share of the stipend received for celebrating Masses, and to entrust the celebration of Masses to other priests with a smaller alms; nevertheless, as most obedient sons of the Holy Catholic Church, and fearing the suspension that could result from this very act, they humbly beseech Your Holiness for a suitable declaration. His Holiness Pope Benedict XIV, with the living voice of his oracle, benignly declared in the prohibition contained in the aforementioned brief that the aforementioned cases are not included: and furthermore, he ordered that this declaration of his mind be communicated to the aforementioned petitioners, and to others who may need it, through the Office of the Holy Penitentiary...

[*Latin ed. p. 447*]

APPENDIX III. 447 S. C. S. S. Rit. March 20, 1875. A question concerning the use of small cloths in the administration of the Most Holy Eucharist.

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Whether, in administering the sacred Communion to the faithful, it is permissible to use small cloths of one line in place of the usual cloths, or whether such a practice can be tolerated in those dioceses in which it has been introduced. Answer: It is not to be permitted; nevertheless, it is to be noted that the Reverend Bishop of Alexandria has not disapproved of the use of small cloths of one line.

S. C. S. S. Rit. July 21, 1855. — A question concerning the cope. 1. Whether the Tabernacle, in which the Most Holy Sacrament is reserved, ought to be covered with a cope, as the Rituale states? And, if so: — 2. Whether this cope can be made of cloth, or cotton, or wool, or hemp? — 3. What color should it be? Some, such as Baruffaldus, believe that the cope should be white in color, as being suitable for the Most Holy Sacrament; while others, such as Gavantus, believe that it should be of the same color as the altar pall and other vestments, according to the time of year and the feast, except for the color black, which is changed to violet in the funeral rites of the deceased.

Answer: Regarding the first question: Affirmative. Regarding the second: Likewise affirmative. — Regarding the third: Both opinions can be followed in practice, but especially the opinion of Gavantus, which has the advantage of being in use in the churches of the City.

S. C. S. S. Rit. March 18, 1878. A question concerning the celebration of Mass before the Most Holy Sacrament. 1. What is to be thought of the increasingly common practice of celebrating Mass publicly before the Most Holy Sacrament exposed in churches where there are no other altars; also, of distributing the Holy Communion in the same Masses, and outside of Mass, at the same altar? 2. Whether the use of a cope over the Tabernacle is now considered obligatory, and whether precious ornaments on the Tabernacle dispense with it.

Answer: To 1. Regarding the first part, it is not permissible without necessity, or a grave reason, or a special indult. Regarding the second part, negatively. To 2. Let a Decree be given in Briocen, July 21, 1855 to XI I (1). (1) EnDecretum: « I. Whether the Tabernacle in which the Most Holy Sacrament is reserved » should be covered with a cope, as the Rituale states; and, if so: 2. Whether this cope can be made of cloth, or cotton, or wool, or hemp. »

Answer: To 1 and 2. Affirmative.

[*Latin ed. p. 448*]

448 APPENDIX III. S. C. S. S. Rit. 7 December, 1641. A question concerning the distribution of Holy Communion on Christmas night. Having consulted with this Sacred Congregation of Rites on previous days, the following question was posed: Whether it would be permissible to celebrate in the middle of the night on the Nativity of Our Lord, after a Mass has been

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solemnly sung, followed by two other Masses, and to administer the Holy Communion to the faithful who desire it; it was answered that it would not be permissible, but rather, both should be entirely prohibited; nevertheless, some Religious asserted that this was permissible, and they petitioned to be heard; and after the Sacred Congregation had heard them, along with their procurators and advocates, and after considering the opinion of the Most Reverend Paleotti, it remained in the decrees and again answered that it is to be prohibited, both to priests who wish to celebrate, and to those who gather in the middle of the night at the church and request Communion. S. C. S. S. Rit. 28 April, 1868. – Nola. – Questions concerning votive Masses. 1. Whether a priest, to whom the Holy See has granted the power, by reason of infirmity or another reasonable cause, to celebrate a votive Mass for the Most Blessed Virgin, can celebrate such a Mass even on more solemn feasts or on privileged days, for example, on the Nativity of Our Lord, on the feast of Pentecost, or on Palm Sunday? And, assuming an affirmative answer: 2. Whether he is obliged to always wear the white vestment, or one appropriate to the feast? 3. Whether, on more solemn feasts, in such a votive Mass, he is obliged to add the Creed or the Gloria, whether he celebrates privately or publicly? 4. When, besides the feast of the saint of the day, another collection is taken for a simple saint or for a feria, will the prayer be that of the Holy Spirit, as prescribed in the general rubrics, or for the simple saint or for the feria? 5. Will a collection be added to this votive Mass, if any has been prescribed by the Ordinary of the place? 6. On the day of the Nativity of Our Lord, can this priest celebrate three Masses for the Blessed Virgin? Answer: Affirmative. To 2. He should always use the white vestment, according to other decrees. To 3. Negative, except for the Gloria on Saturdays. To 4. He should only recite those prayers that are appropriate for a votive Mass. To 5. Negative. To 6. Negative, according to other decrees.

[*Latin ed. p. 449*]

APPENDIX 449 III. Decree 8. of the Sacred Congregation of the Holy Office, March 29, 1869. — Doubts concerning the faculties of priests who undertake voyages overseas. Since it has been repeatedly debated among theologians regarding the faculty, by which local Ordinaries are accustomed to grant to priests undertaking maritime voyages, namely, to hear the confessions of the faithful accompanying them on the same voyage, and since there has not been a single, uniform opinion on this matter, nor a judgment from the Sacred Congregation of Rome, recently, the Most Reverend Bishop of Nantes presented the same question to the judgment of the Supreme Sacred Congregation, in the form of a doubt: Whether priests undertaking a voyage overseas, granted a faculty by the Ordinary of the place from which the ships set sail, could validly hear the confessions of the faithful during the voyage; The Most Eminent

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Fathers, Cardinals, Inquisitors General throughout the Christian Republic, considering the matter to be of sufficient gravity, concerning the good of souls, and in order to remove all future grounds for doubt and anxiety, after due discussion, on Thursday, March 17, 1869, decreed: That priests undertaking a voyage, approved by the Ordinaries of the places from which the ships set sail, can validly and lawfully hear the confessions of those faithful who are traveling with them, as long as they arrive at a place where another ecclesiastical superior with jurisdiction is established. However, it is to be taken care by the Ordinaries themselves that they do not grant such a faculty to priests who have not been recognized as suitable for this purpose, according to the Council of Trent, Session 23, De Reformatione, Chapter 15. This resolution, presented by the Reverend Father Assessor of the Sacred Office, was fully approved and confirmed by His Holiness Pope Pius IX, and the Most Reverend Bishop of Nantes and other interested Ordinaries were ordered to be informed accordingly. Sacred Congregation of the Holy Office, April 28, 1700 — Doubts concerning those who solicit (in the Bull against those who solicit). 1. Whether, by the words simulating confessions heard (in the Bull against those who solicit), if the solicitation and the true or feigned confession are sought together, so that, if these two circumstances are not present, there is no obligation to denounce. 2. Whether, when the confessional of a monastery also serves as a place for acts, [the question continues in the next line, but is incomplete in the provided text].

[*Latin ed. p. 450*]

450 APPENDIX: Regarding the discourse with a confessor, in the event that solicitations occur there, there is an obligation to report. III. Concerning conversations with a confessor, to the extent that solicitations take place there, an obligation arises to report.

R. To question 2: The presence of either one is sufficient.

R. To question 2: Affirmative.

S. C. S. Officii (Sacred Congregation of the Holy Office), 15 September 1859 – Doubts regarding Solicitation.

1. Can any confessor absolve a priest who has made solicitations during the act or in the place of the sacramental confession?

2. When can a confessor be considered guilty of a shameful sin, so that if he absolves the accomplice, he may incur the penalties and censures prescribed by the Constitutions of Benedict XIV, namely, those beginning with *Sacramentum Poenitentiae* and *Apostolici muneris*?

I. Can any confessor absolve a priest who has made solicitations in the act or in the place of the sacramental confession?

II. When can a confessor be considered guilty of a shameful sin; so that if he absolves the accomplice, he may incur the penalties and censures pre-

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scribed by the Constitutions of Benedict XIV, *Sacramentum poenitentiae* and *Apostolici muneris*?

Ad 1. Provided that the solicitation, as long as it is simple, is not reserved to the Holy See by law, there is nothing to prevent a priest who has made solicitations, having otherwise been properly disposed, from being absolved by any confessor.

Ad 2. To determine when a confessor should be considered guilty of a shameful sin, and of a grave nature in general, so that if he attempts to absolve the accomplice, he should be considered subject to the penalties and censures prescribed by the Constitutions of Benedict XIV, it is advisable to consult approved authors, and especially Saint Alphonsus de Liguori.

S. C. S. Officii, 18 March 1863 – Regarding the prohibition from celebrating Mass against those who make solicitations.

Having examined whether the penalty of prohibition from celebrating the Holy Mass, prescribed against those guilty of solicitation in the Decree of Benedict XIV of 5 August 1745, is *latae sententiae* (of general application) or only *ferendae* (to be imposed), in accordance with previous resolutions:

[*Latin ed. p. 451*]

By the resolutions of this Most Holy Congregation, and by the declarations of the Holy Penitentiary, the Eminent Inquisitors General considered that the aforementioned penalty is only *ferendae sententiae* [subject to further consideration]. Having reported this matter to the Holy Father by the Assessor of the Holy Office, Holiness deigned to confirm this declaration, and ordered that it be notified to the Most Holy Congregation of Propaganda, which should communicate it to the Apostolic Vicars and Superiors of the Missions, warning them to observe it in practice, notwithstanding any other contrary response that may have been given on this subject.

Instrumenta S. Congregationis S. Officii, 20 Julii 1890.

Normae pro examinibus poenitentium, quae denuntiant sollicitantes. It is not uncommon for this Congregation of the Holy Roman and Universal Inquisition to receive from Ordinaries or the Holy Penitentiary denunciations against confessors who solicit penitents for immoral purposes, and it often happens that in the denunciations themselves, other penitents are mentioned, either as certainly solicited for immoral purposes, or only suspected by indications, which, however, have not been sufficient to fulfill the obligation to issue a denunciation according to the sacred Canons. In order that such a heinous crime may not remain unpunished without due reprimands, the Holy Congregation, by means of Apostolic Constitutions, instructs the Ordinaries of the places to subject the mentioned penitents to a suitable examination, so that legal proofs may result in the procedural

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records. However, experience has shown that such examinations are not always conducted with sufficient skill or legality by the delegated judges; thus, often the cases themselves, which are otherwise serious and harmful to the faithful, are not properly pursued. Therefore, in order that in the future, the aforementioned defects in the examinations may not cause infected cases against soliciters to remain unaddressed, this Most Holy Congregation considers it opportune, indeed necessary, to provide the Ordinaries of the places with instructions according to other decrees and ordinances already issued.

[*Latin ed. p. 452*]

452 APPENDIX III. to transmit the examination to those who are able to diligently and lawfully conduct examinations of penitents. It should be noted that great circumspection must be used in inviting persons to the examination; for it will not always be appropriate to summon them to a public place in the Chancery, especially if those to be examined are young girls, or married women, or those in service; in such cases, it will be advisable to summon them, either to the sacristy, or to another place nearby, according to the prudent judgment of the Ordinary or judge, so that their examination may be conducted with due care. And if those to be examined are in monasteries or hospitals, or in pious houses for girls, then they must be summoned with great diligence and on different days, according to the particular circumstances. Furthermore, the judges appointed to conduct the examinations should take note that in their examinations, and in those of the Chancellor or Notary, who must always be ecclesiastics, only the person to be examined should be present, without a companion, without a witness; for everything must be carried out under inviolable secrecy. Finally, the Ordinary must transmit to this Supreme Congregation a certified copy of the proceedings, compared with the original. With these general precautions observed, the following is the standard procedure for conducting an examination.

STANDARD PROCEDURE FOR CONDUCTING AN EXAMINATION BY GENERALS

By virtue of the letter of the Sacred Supreme Congregation dated . . . (or by virtue of the decree of the Most Illustrious and Reverend Lord Archbishop Ordinary), the person summoned appeared personally before the Most Illustrious and Reverend Lord N. N., present in the Chancery (or in the sacristy, or in the parlor of the nuns or pious house), and I, N. N., unmarried (or married), residing in this city of N. N., in the parish of N. N., daughter (or wife) of N. N., of the age of..., of civil condition (or farmer, or in service), to whom, after being sworn to speak the truth, which oath she duly made in the name of Almighty God and His Gospels, was asked:

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Q. Does she know or imagine the reason for her summons and this present examination?

A.

Q. For how many years has she been accustomed to approach the Sacrament of Penance?

A.

Q. Has she always received the Sacrament of Penance from the same confessor, or from several priests; and furthermore, has she done so in the same church, or in several churches?

A.

[*Latin ed. p. 453*]

APPENDIX III. 453 Inter. Whether from those to whom she has confessed, she has received holy admonitions, and suitable precepts, which would edify her, and deter her from evil, and to what extent, etc. Answer. Note: If the answer is affirmative, that is, if she says that she has always been properly guided, then she is questioned in the following manner: Inter. Whether she knows or remembers having ever said or heard that a certain confessor did not behave in a holy and honorable manner towards penitents; or that murmurs, or contemptible words were spoken against that confessor: for example, whether the person being examined has heard from one or several penitents, and from one within the last year, or four, or three months, similar things? Note: If, after this question and observation, the person being examined continues to deny, the act is closed in the usual manner, which is provided at the end of these instructions. But if she reveals anything concerning a certain confessor, according to what has been asked, she will be questioned further as follows: Inter. To state the name, surname, office, age, and place or seat of the confessor; whether he is a secular or religious priest, and to what extent, etc. Answer. Note: In this place, the judge will carefully ensure that the shameful words, seductions, invitations to meet in a certain place for an evil purpose, and all other things that constitute the crime of solicitation, are reported in the very words used by the confessor, using the vernacular language in which the answers are carefully and truthfully elicited; and the judge will also note whether the person being examined appears to be deterred from revealing the truth by excessive fear or timidity, and will urge her to confide everything in a safe and secret manner. Finally, he will inquire from what time the solicitations began, how long they lasted, how often they were repeated, with what words and actions, and with what expressions that suggest an evil purpose. He will take care not to inquire about the consent of the person being examined to the solicitations, nor about any question that might reveal a desire to know about her own sins. Inter. Whether she knows or has heard

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it said that the aforementioned confessor has, -

[*Latin ed. p. 454*]

454 APPENDIX III. concerning those who have been incited to commit shameful acts; and to the extent that they are named (and here, the name, surname, and at least clearer indications, by which other concerned persons may be identified). Note: If, perchance, other concerned persons are brought in, it will be the duty of the judge to prudently summon them and to examine them individually, according to the form explained above. Interrogatory. Concerning the reputation of the aforementioned confessor, both with himself and with others? Interrogatory. Whether the aforementioned person has testified out of love for justice and truth, or rather, out of some feeling of enmity or hatred, and to the extent, etc. Answer: Having been questioned again concerning the oath taken to observe silence, and after having been read the Holy Gospels of God, and after having undergone his examination in confirmation of the foregoing, he subscribed (if he is illiterate, it should be said that) and, since he did not know how to write, he made the sign of the Cross. (Subscription of the examined person) These things were done by me, N. N., Chancellor or Notary, appointed for this purpose. S. C. S. Office, 2 December, 1874. – Doubt concerning sacramental confession before baptism. Whether the catechumens can make sacramental confessions before they are baptized, either absolutely or conditionally. Response: Regarding sacramental confession before baptism, absolutely, the answer is negative; but if, nevertheless, a catechumen wishes to confess, he should be instructed that this can in no way be considered under the notion of a Sacrament, since absolution cannot be granted, nor are confessors bound to observe secrecy. But if it concerns those who are to be baptized conditionally, then they can, for the greater facility of the ecclesiastical function, be heard sacramentally first concerning the accusation of their sins; then, after the imposition of conditional baptism, the confessor, having again taken up the matters with the penitent, concerning which he has already made an accusation, can likewise grant sacramental absolution, conditionally.

[*Latin ed. p. 455*]

APPENDIX III. 455 From the Apostolic Letter of Gregory XVI, February 3, 1832, addressed to the Armenian Primate, concerning the administration of the Sacraments of Penance and the Eucharist in private homes. We have received here in Constantinople with considerable concern the news that the Sacraments of Penance and the Eucharist are frequently administered in private homes. Therefore, in order to prevent abuses that may easily arise from this practice, we earnestly urge you to carefully examine this matter, and after consulting with the Most Reverend Archbishop of Sardinia, the Apostolic Patriarchal Delegate, to diligently consider prudent measures, so

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that this practice is not permitted indiscriminately to everyone, but rather that such faculties are granted only to those priests who are endowed with such piety as to dispel all suspicion, and in favor of those laypersons who are not only of good moral standing, but also have a suitable place for the proper and reverent celebration of the sacred mysteries, separate from profane uses, where the sacred ministry can be exercised without any danger of profanation.

S. C. S. Office, September 5, 1859 – Doubts regarding absolution.

1. In what cases can it be said that penitents are in danger or at the point of death, so that they can be absolved from all censure and sin by any priest?

2. Can Bishops, in virtue of the *Liceat* clause, absolve from cases reserved to the Holy See after the Council of Trent, and specifically, a confessor who has attempted to absolve an accomplice in a shameful sin?

1. In what cases can penitents be considered to be at the point of death, so that any priest can absolve them from all sins and censures, and under what conditions, especially if it concerns censures reserved to the Supreme Pontiff? Consult the decree *Cum desideres* and Canon 26, concerning those who are under sentence of excommunication.

2. Can Bishops, according to the resolutions of the Holy Congregation concerning the interpretation of the decrees of the Council of Trent, which were proposed in January of the year 1589?

[*Latin ed. p. 456*]

456 APPENDIX III. To the Archbishop of Milan, the following reply was given: The reservations of cases, introduced anew after the Council, are not included in Chapter VI, Session 24 of the reforms, and especially concerning the enclosure of nuns; and on March 2, 1595, the following was replied to the Bishop of Nuceria: The Bishop must know that the faculty of absolution granted to him by the decree of Chapter VI, Session 24, does not extend to cases which have been reserved to the Apostolic See by new Constitutions of the Supreme Pontiffs after the Council of Trent. Instruction of the Sacred Congregation of the Holy Office, February 1, 1871 – To the Vicariate Apostolic of Mysore. Interpretation of the Apostolic See concerning Catholic magistrates, etc. You expressed concern regarding Catholic magistrates and servants of the government who violate the immunity of ecclesiastical asylum, fearing that all of them might be subject to excommunication, which is the fifth among the excommunications of latæ sententiæ reserved to the Roman Pontiff, as stated in the Apostolic See's Constitution of October 12, 1869, and which reads as follows: "Those who order or, with temerarious audacity, violate the immunity of ecclesiastical asylum." To alleviate this concern, the Most Eminent Fathers, having also heard the advice of the Holy See, wished to make you aware that in that formula,

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the words "with temerarious audacity" encompass both. From this, you will understand that excommunication only applies to those who, without being compelled by others, prudently and knowingly, either order or carry out a violation of the immunity of ecclesiastical asylum; and it would be surprising if those who, for example, are entirely without excuse, were not subject to excommunication. Furthermore, you expressed a similar concern regarding the same magistrates and servants of the government who bring clerics before their tribunal for violation of civil law, or in other ways, whom you feared might be ensnared by excommunication, which is the seventh among the excommunications of latæ sententiæ specially reserved to the Roman Pontiff, as stated in the aforementioned Constitution of the Apostolic See. However, in that formula, you must pay attention to the word "compelling," which clearly indicates that the excommunication does not apply to those who are subordinate, even if they are judges, but only to those who, without being compelled by anyone, act in this way, or who compel others to act in this way, and it is easily understood that the latter do not merit any indulgence. Moreover, you inquired whether those who incur the aforementioned censures (of the Constitution of the Apostolic See) should be admonished; and it was not clear whether you were inquiring about the internal or external forum. But if the matter pertains to the internal forum, it is permissible for theologians to sometimes (that is, with the necessary exceptions, about which they themselves speak) to dissimulate with a penitent, when these two things concur: good faith and an undoubted presumption.

[*Latin ed. p. 457*]

APPENDIX III. 457 It has been perceived that light comes from the admonition; however, whether, either because of the quality of the persons subjected to excommunication, or because of the quality of the Constitution imposing the same censure, which is the most recent and plainly known, it can be given that good faith which suggests that the admonition can be omitted, is difficult to say. If the matter concerns the external forum, a distinction must be made between a pastoral admonition and a judicial sentence by which the accused is declared to have incurred excommunication. Whether such a declaratory sentence should be issued cannot generally be determined, but must be carefully considered in light of the facts and circumstances of the persons involved. As for the pastoral admonition, we know what the theologians teach: they consent that, if there is a lack of probable hope of amendment and fruit, and if a prudent fear of a greater evil is present, the duty of admonishing may be postponed; nevertheless, they warn that, if scandal arises from the pastor's silence, it is not permissible to cease admonishing. Finally, regarding whether you have the power to absolve from the aforementioned excommunications, the Eminents Fathers have judged that this is being asked of you because of the derogatory

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clauses that are read in the Apostolic Constitution. Otherwise, you must know for yourself what powers have been granted to you. Therefore, they have decided that a declaration regarding the aforementioned clauses, issued by this Supreme Congregation at the mandate of His Holiness, should be communicated to you, namely: "His Holiness did not intend by said Constitution to innovate in any way regarding powers of any kind that were granted before the promulgation of the same Holy See, whether they are quinquennial, or extraordinary, or issued on the occasion of the present Jubilee, all of which He commands and declares must remain in full force, during the time specified in the respective concessions or indulgences." From the Letter of the Sacred Congregation of the Holy Office, February 10, 1871. — Correction of the text of the Apostolic Constitution in article 5 concerning censures, etc. In the redaction of article 5 concerning excommunications *latae sententiae*, reserved to the Roman Pontiff, by the Apostolic Constitution *Apostolicae Sedis* of October 12, 1869, an ambiguity arose in proposing and applying the words "with temerity" only to those who violate immunity.

[*Latin ed. p. 458*]

458 The term "immunity" (immunitas), whereas, according to the pontifical view, this qualification ought to apply also to the first category of those who violate [the law], namely, those who incite to violate; at the proposal of the Supreme Sacred Congregation, the Most Holy Father, in the audience of the day of Feria IV, June 15th of last year, deigned to order that this article be restored to its genuine sense and value, so that it must henceforth be read: "Those who, with temerity, violate or incite to violate the immunity of the ecclesiastical asylum."

S. C. S. Officii, December 5, 1883, Ep. Petrocoricen. Questions regarding minor excommunication, etc.

1. Almost all commentators on the Apostolic Constitution teach that, by virtue of this Constitution, minor excommunication has been abolished. Whether this opinion can be safely taught in a seminary.

2. They again teach that the confessor is not subject to excommunication who pretends to absolve a complice in a grievous sin, but does not actually absolve him. However, the Holy Penitentiary declared the contrary on March 1, 1878. Can the prelate permit that the aforementioned opinion of the commentators be taught in his seminary, contrary to the response of the Holy Penitentiary?

R. To 1. Affirmative. To 2. Negative.

— Most Holy Father approved.

[*Latin ed. p. 459*]

459 LETTERS. His Holiness Pope Leo XIII to Aloysius of Canossa, Bishop of Verona, and to other Bishops of the province of Venice. — Concerning a

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new law to be enacted, which requires the civil marriage ceremony to precede the Christian marriage. Beloved Son, and Venerable Brothers, Apostolic Benediction. The intention to enact a new law, which would impose the precedence of the civil marriage ceremony over the celebration of the Christian marriage, has rightly aroused your pastoral vigilance, and with commendable counsel, before making any determination on the matter, you have turned to this Apostolic See, to which, because of its superior authority, it has always been necessary for the entire Church to refer. We, always intent, by reason of our supreme ministry, on the well-being of the Christian flock, among the grave and incessant cares that occupy us, have not neglected to repeatedly emphasize the necessity of preserving the sacred character impressed upon the Christian marriage by its divine Author: all the more so, since from it also depends the sanctity of families, the peace of consciences, the proper education of children, and the well-being of civil society. Especially in our encyclical letters *Arcanum divinae sapientiae*, we have deliberately and with the utmost diligence and completeness expounded the Catholic doctrine on this subject; and at the same time, we have endeavored to recall...

[*Latin ed. p. 460*]

460 Letters concerning the attainment and preservation of the Christian nobility of the conjugal union, and also concerning those matters which, with respect to it, can legitimately be attributed to civil authority. If those who have heard our words had been men of good will, or even innocently deceived, we would have justly hoped that the truth, illuminating their minds, would have induced them, if not to immediately repair the injuries already inflicted upon the Church through undue interference in the marriages of its children, at least to cease from more grievous outrages. But so obstinate is the evil inclination in some to oppose everything that is Christian, and to continue in the sad work begun of secularizing, as they say, society, that is, of rendering it independent of Jesus Christ and depriving it of the immense benefits of the Redemption; and instead of seeking to repair the damages already done and manifest, they threaten to inflict even more grievous ones through the legislative project now well known to all. How many things have been accomplished by the Church, both openly and secretly, to perfect and safeguard the dignity of the Christian marriage, and what duties, with respect to it, can legitimately be attributed to civil authority, and granted to it.

It is unnecessary here to repeat individually the teachings already given, since they are before your eyes and those of the faithful; but it is not inopportune to declare once again that civil authority has power over the civil effects of marriage. We have already presented documents on these matters, which are still before you and the faithful, so we consider it superfluous to repeat them here. But it is not inopportune to declare again that

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civil authority has civil jurisdiction over the civil aspects of marriage.

If those who have heard or read our words had been men of good will, or even innocently deceived, we would have justly hoped that the truth, illuminating their minds, would induce them, if not to immediately repair the injuries inflicted by civil authority through arbitrary actions in regulating the marriages of Catholics, at least to avert more grievous affronts. But indeed, a stubborn and insane will to oppose everything that is Christian is revealed in some, and a most deplorable work is being carried out to completely secularize human society, as they say, that is, to separate it from Christ the Lord, and to deprive it of the most glorious benefits of the Christian Redemption; and instead of striving to repair the damages already done and manifest, they threaten to inflict even more grievous ones through the project of a new law, now clearly understood by all.

[*Latin ed. p. 461*]

Let the Church retain what pertains to marriage in itself; acknowledge the fact of a true and legitimate marriage, as it was instituted by Jesus Christ and practiced by the Church, and then proceed to grant or deny the effects that follow from it in the civil community, because it is a dogma of faith that the marriage of Christians was elevated by Our Lord Jesus Christ to the dignity of a sacrament; and this dignity, according to Catholic doctrine, cannot be considered as an accidental quality added to the marriage contract, but is intimately essential to it, because the very contract, by divine institution, has become a sacrament. Therefore, the distinction between the contract and the sacrament would be vain, if it were to imply that among Christians a valid marriage contract can exist that is not a sacrament. Consequently, since the administration of the sacraments belongs exclusively to the Church, any interference by the civil authority in the marriage contract itself, and not merely in its effects, is a sacrilegious usurpation of jurisdiction. Indeed, the civil authority may determine and regulate the effects; but what pertains most closely to the marriage itself must be left to the Church. Let the civil authorities acknowledge that a true and legitimate marriage is that which was instituted by Jesus Christ and is actually celebrated by the Church; and from this, they should proceed to grant or deny the effects that follow from the marriages of citizens in the civil community, either granting or denying them as appropriate. Truly, a law that prescribed the precedence of the civil rite over the true marriage that is contracted before the Church would indeed profane the marriage contract itself.

[*Latin ed. p. 462*]

462 The civil law, with its mind set on the very marriage contract, and not merely its civil effects, would thus bring the State to bear upon the administration of a Sacrament. No other power, other than that to which such administration pertains, can judge of the conditions required for cel-

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ebrating the marriage, of the suitability and capacity of the contracting parties, and of the other circumstances from which it depends that the marriage be contracted lawfully and validamente. It is of no avail to argue that the civil power, by the law of precedence of the civil rite, does not touch the Sacrament administered by the Church; for that law neither denies nor acknowledges it, leaving it to the discretion of the contracting parties to celebrate the religious marriage after the civil rite, if they so wish. In truth, this law would punish the religious marriage, that is, the true marriage, declaring it implicitly unlawful if it is not preceded by the civil rite, unless, of course, one wishes to punish an act that is lawful in itself. With the penalties that the designed law threatens, and which it would inflict once sanctioned and violated, it would certainly not succeed in rendering null a marriage contracted according to the laws of the Church; for it is a matter of natural and divine law, against which there is no power in the world that can prevail; but it would, however, employ all means to make it considered as null, for as much as it would concern not merely its civil effects; and thus the civil power would intervene in the very administration of the Sacrament. Every other power, besides that to which this administration pertains, cannot judge of the necessary conditions for a marriage to be rightly entered into; whether the parties are indeed capable and fit for marriage; and finally, of the other circumstances from which it is perfected, so that the marriage itself may be celebrated honorably and piously. — Nor does it avail to object that the civil power, by the law in which it commands that the civil rite precede, does not in any way touch the Sacrament administered by the Church; for that law neither denies nor acknowledges it, leaving it to the will of the contracting parties to celebrate the religious marriage, if they wish, after the civil rite. In truth, this law would affect the ecclesiastical, that is, the true, marriage, declaring it in a certain way unlawful, if at any time it is not preceded by the civil rite; unless, perhaps, one wishes to punish an act that is in itself lawful and honest. The penalties, indeed, which the devised law threatens, and which, once sanctioned and neglected by the citizens, it would inflict, would certainly not render a marriage contracted according to the laws of the Church null; for it is a matter of natural and divine law, against which no earthly power can ever prevail; but it would, however, employ all means...

[*Latin ed. p. 463*]

In order to prevent this, to frustrate its effects, and to render null those consequences which legitimately flow from it, which, if it were not already sufficiently clear, would become entirely evident by considering a recent, unjust, and sacrilegious measure already enacted concerning the marriages of military personnel; for, just as, after having legitimately united themselves, they are compelled to separate from their spouses, so, before uniting themselves, they are denied the faculty of entering into marriage. In this

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way, in times of boasted civil progress, we would return to an ancient and tyrannical barbarity, which dared to deprive men of a right which nature itself grants them, and against which the Church has so diligently striven; the only difference being that, formerly, slaves were denied the right to enter into a legitimate marriage, while now, military personnel and other classes of people are denied this right, being stripped of their freedom and reduced to the condition of slaves.

But this is not the only injustice that is done to the Church by the proposed law; there is another, equally grave. Everyone knows that our Divine Savior entrusted to His Church the judgment and governance, not only of all that pertains to faith, but also of that which concerns morality. The Church was instituted by Him, so that it might be a certain and infallible guide for all men in the pursuit of eternal salvation; and just as, in order to be saved, it is not enough to believe correctly, but it is also necessary...

[*Latin ed. p. 464*]

464 To act according to the faith, therefore, belongs to the Church the judgment concerning the moral law and customs, no otherwise than concerning the deposit of the faith. Now, it is precisely a matter of morals and customs to determine whether, in certain cases, it is fitting to enter into marriage or to abstain from it. The state of virginity is, in itself, more perfect than that of marriage, and those who, inspired by grace, embrace it are to be highly praised; but this grace of perfect continence is not given to all, and therefore, according to the Apostle, "It is better to marry than to burn" (1 Corinthians 7:9). Furthermore, it can sometimes happen, through the malice or weakness of the corrupted nature, that reprehensible practices between two persons of different sexes have already gone too far, so that, without serious injury or prejudice to one of the parties, or even without the danger of the eternal salvation of both, marriage cannot be omitted. However, in order to avoid any infamy or discord in families and between families, it will sometimes be necessary to conclude everything with the utmost haste and secrecy; and, if possible, to postpone and reject the publication of the marriage until a more opportune time. These and similar considerations rightly escape the notice of a state.

[*Latin ed. p. 465*]

LETTERS 465, which, claiming to absorb all the rights of the family and individuals, do not hesitate to violate them all, under the pretext of providing for themselves; and they would indeed provide for themselves imprudently. Furthermore, for a state that wishes to disregard all divine and Christian laws, it matters little whether sins are multiplied, whether through illicit unions or by persevering in them; although reason, faith, and history clearly demonstrate that the corruption of morals weakens, damages, and consumes societies. Such is the blindness and implacable

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hatred of these new legislators, that even at the very moment of death, when a soul is about to appear before the terrible judgment of God, they dare to restrain the hands of His Minister, forbidding him to exercise his ministry of reconciliation, peace, and salvation, except under certain unjust conditions, which, if strictly observed, would certainly expose that soul to eternal ruin.

The Church, whatever temporal power it may sometimes possess, will never fail in its divinely appointed office; nor will it ever permit that souls redeemed by the precious blood of Jesus Christ should perish.

[*Latin ed. p. 466*]

Letters concerning which it must render strictest account: and, to speak truly, the State has no reason to fear, allowing it to act with the freedom that is proper to its salutary ministry. If, for its own good, it sometimes permits secret marriages, as they are called, of conscience, this happens only in cases of very grave necessity, requiring it by the supreme law of the salvation of souls. But the Church itself has established the conditions for such cases to be very rare, has prescribed remedies so that neither the contracting parties nor their offspring may suffer any harm, and has carefully arranged everything to prevent other inconveniences. Moreover, in its legislation and in its practice, it deeply deplores that such cases should ever occur, and strives in every way to ensure that marriages are always, as far as possible, celebrated publicly and solemnly. This is amply demonstrated by the sole constitution *Satis vobis* of our illustrious predecessor, Benedict XIV, who, after having set forth what the Councils and the Roman Pontiffs have wisely established concerning the public solemnity of marriages, and having enumerated the evils that result from neglecting it, admits indeed some very rare necessary exceptions, but addressing the Bishops, he exhorts them thus: "Furthermore, it is necessary that you, indeed perhaps even greater vigilance, be exercised by you, so that, after repeated warnings, a marriage is not celebrated before a priest, or another priest appointed by the priest himself, of whom an inexorable account must be given, lest they perish eternally. For indeed, if the civil government allows the same Church to enjoy the freedom that is entirely appropriate to its salutary ministry, it has nothing to fear." If, at times, a secret union, or as they call it, a "marriage of conscience," is permitted, albeit reluctantly, it is only in cases of very grave necessity, when the supreme law of saving souls demands it. But the same Church has established certain conditions that must be observed, so that such cases occur very rarely; it has prescribed remedies so that neither the contracting parties nor their future offspring may suffer any harm; and it has carefully arranged everything to prevent any other inconveniences. Moreover, in its laws and in its practice, it deeply deplores that such a necessity should ever arise, and strives in every way to ensure that marriages are always, as far as possible, celebrated publicly

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and solemnly.

[*Latin ed. p. 467*]

Having been appointed by you, in the presence of two or three trustworthy witnesses, so that no knowledge or rumor of the celebration may arise. For, in order that it may be lawfully done according to the prescriptions of the Sacred Canons, it is not sufficient for any obvious and common cause, but a grave, urgent, and most urgent reason is required... Your pastoral office should diligently investigate the legitimate and urgent reason for the dispensation, lest marriages secretly celebrated have grievous consequences, which we have lamented with deep sorrow of heart. Having said this, it is justly asked what reason the State may have for imposing the precedence of the civil rite, because the marriage contracted before the Church, which must regularly be public, cannot escape the eyes of the State; and this, by the laws in force, has already provided, even beyond measure, for its civil effects, which are solely its competence. Why, therefore, is it not content with this?

Since such is the case, it is lawful for everyone to ask what just reason can the civil government have for prescribing that the civil rite of marriage be performed first? Since the marriage celebrated before the Church, according to the precepts of that same Church, must be public, it certainly cannot escape the notice of the civil government; and indeed, the laws recently enacted have already provided sufficiently (indeed, even beyond measure) for its civil effects.

[*Latin ed. p. 468*]

468 Letters; does it now wish to impose precedence even upon what is called civil marriage? Is it perhaps to prevent those very rare marriages of conscience, which the Church itself does not permit, except when compelled by most urgent reasons? But the law, by its very nature ordered to the common good, could scarcely concern itself with singular and very rare cases, from which there is no reason to fear that public peace and tranquility, which is the very purpose of political authority, will be disturbed; and since the law itself is an arrangement according to reason, it could never prevent that in those very rare cases, what good morals and the eternal salvation of souls demand, be done. Even if the very nature of the law that is threatened did not itself sufficiently show to what end it aims, it would suffice to observe from whom it is inspired and promoted; for it is no secret, but a matter publicly known, that the so-called Masonic sect has for a long time meditated this new outrage against the Church; and now, in order to bring it to fruition, it instructs its adherents to inflict it. The intentions of this ill-fated sect are always and everywhere the same, that is, directly hostile to God and the Church; and it cares little for it, not to say that souls are lost, but that society decays more and more and

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plunges into ruin, and that the very much-vaunted liberty is oppressed, provided that, together with it, the Church is also chained and oppressed, and its salutary effects are weakened, which, beyond any doubt, are solely directed towards it, and it certainly approves. Why, therefore, now, content even with what they call civil marriage, does it wish to impose this in addition? Is it perhaps to prevent those very rare marriages, which are called marriages of conscience, which the same Church usually allows only when compelled by most urgent reasons? But the law, which by its very nature is ordered to the common good, can scarcely concern itself with useless care regarding singular cases, and those very rare cases; for which it is not to be feared that public peace and tranquility, which is indeed the closest end of political authority, will ever be disturbed; and since the same law is a certain arrangement according to right reason, it could never prevent that in these events, what is demanded by both the best rule of morals and the eternal salvation of souls, be accomplished. Even if the very nature of this threatened law did not itself sufficiently show to what end it aims; it would suffice to observe from whom it is inspired and promoted. For it is no hidden mystery, but a matter that is altogether manifest: the sect, which they call Masonic, has long ago devised this new injury to be inflicted upon the Church; now, it seeks to achieve it, and commands its followers to inflict it. The designs of this nefarious sect...

[*Latin ed. p. 469*]

The Christian sentiment, little by little, is diminished and extinguished. It is always and everywhere the same, an enemy to God and to the Church; and it matters little, although we do not say that the souls of citizens perish eternally, but that universal human society weakens more and more each day, and finally collapses; and that the much-vaunted liberty is entirely obscured and suppressed, provided that, along with it, the Church is curtailed and oppressed, and the Christian spirit is weakened and extinguished in the people. It is a bitter irony that the word "liberty" is on the lips of those who presume to regulate, according to their own whim, a right that every man possesses by nature, the exercise of which precedes the constitution of civil society; since the closest elements of this are the individual families, which are formed and constituted by the conjugal bond. More serious, however, is the violence done to consciences, when such a law is imposed upon a Catholic nation; which, faithful to its ancestral traditions, and, by a singular privilege, closest to the center of unity, feels its most sacred convictions and its faith more keenly offended by this law. It avails nothing to repeat that the State leaves to each citizen the liberty to enter into marriage, if he so wishes, before the Church; for by this, equal liberty is left to not appear before the Church.

It is, indeed, nothing but a bitter irony, liberty in the mouths of those who dare to regulate, according to their own whim, a right which every man

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possesses from nature itself, and the exercise of which precedes the very constitution of civil society; since the closest elements of this are the individual families, which are formed and constituted by the conjugal bond. More grievous, however, is the violence done to the consciences of men, when this very law is imposed upon a Catholic nation, which, firmly adhering to the traditions and discipline transmitted by its ancestors, and, by a singular benefit of God, closest to the center of Catholic unity, feels its own most certain and sacred feelings and its faith more keenly offended by this law. It avails nothing to add that, by civil law, liberty is left to each citizen to enter into marriage, if he wishes, before the Church.

[*Latin ed. p. 470*]

470 Letters, introducing through factual means the erroneous persuasion that, with the civil rite alone, a legitimate marriage is entered into, whereas in truth, there is only an abominable concubinage. Moreover, if, for just reasons, the Church could not join in marriage those who are already civilly bound, they would be forced into a celibacy for which they have neither the will nor the vocation, or they would be led to live a life in an illicit and scandalous union. Nor is violence done solely to the freedom of the contracting parties, but also to that of the witnesses; and this violence is all the more odious, inasmuch as those who would be chosen as confidants and friends, in cases of necessity, would be turned into vile informers, betraying friendship through this law, and threatened with punishment if they do not comply. Finally, the tyranny exercised against the Ministers of the Sanctuary should be considered, who are vexed and punished not for any other reason than that they have performed their office in matters which absolutely belong to the ecclesiastical authority, and for most sacred reasons of maintaining morality and of the eternal salvation of souls; that is, because they have acted according to their conscience and duty. And as if the offense to common freedom arising from the determined prescriptions of the law were not enough, it is sought to increase it with the unheard-of severity of the penalties prescribed: a severity that appears partisan and hostile, when exercised by a State that, even before the Church, intends to celebrate the marriage. For in this way, the freedom of the Church would not be hindered from acting, but this very act would introduce the nefarious opinion that a legitimate marriage is entered into solely by the civil rite, whereas in reality, if anyone uses it, it is nothing other than an abominable concubinage. Furthermore, if at any time the Church, for just reasons, does not wish to join those who have already been joined by the civil rite in marriage, they would then either have to remain celibate, a state of life to which they are neither drawn by their own will, nor called by God; or they would be led to live a life in an illicit and infamous concubinage. Neither the sponsors alone, but also the freedom of the witnesses is violated; and this violence is all the more odious, inasmuch as those who are chosen as

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friends and relatives, as is customary in cases of necessity, would be turned into the most vile of informers, and betrayers of friendship, through this law, and threatened with punishment if they do not comply. In summary, the tyranny exercised against the sacred Ministers should be considered, who are vexed and punished not for any other reason than that they have performed their office in matters which absolutely belong to the ecclesiastical authority, and for most sacred reasons of maintaining morality and of the eternal salvation of souls; that is, because they have acted according to their right conscience and their duty.

[*Latin ed. p. 471*]

The laws, in the remainder of his legislation, appear to be informed by a concern for the customs and times. Indeed, while he abolishes or mitigates the punishment due for very grave crimes, he nevertheless intends to oppress only the faithful and the priests, who, following the voice of their own conscience, obey Jesus Christ and His Church. And as for the parish priests, no one can fail to notice the feigned ignorance or contradiction of the legislators; for while they pretend to have compassion for the poverty of the parish priests, and promise measures intended to improve their condition, they then decide to subject them to enormous fines, which they will never be able to pay. Therefore, in short, this is the judgment that must be passed on the new draft law, which we are discussing. It usurps the rights of the Church, hinders its salutary action, and increasingly restricts...

471. Almost as if a slight offense, which is incurred by certain provisions of this law, were not enough, the legislators seek to increase it with the most severe penalties. This indeed reveals a studious and hostile attitude towards a certain part, when it comes from one who, in his other laws, pretends to be mild and accommodating, according to the reason of customs and times. He himself, who either abolishes or mitigates the punishments due for the most grievous crimes, does not hesitate to oppress only Catholics and priests, who, listening to the voice of their conscience, live according to the example of Jesus Christ and His Church. As for the parish priests, the feigned ignorance or open contradiction of the legislators cannot escape anyone; for while they pretend to have compassion for the poverty of the parish priests, and propose, boast, and proclaim many things, already established or soon to be established, which they claim will provide for the improvement of the lives of the parish priests, they nevertheless decide to subject the parish priests themselves to the most grievous fines, which they perhaps will never be able to pay. Therefore, in a few words, this is the judgment that must be passed on the proposal for this new law, which we are now considering. Indeed, it usurps the rights

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of the Church; it hinders its salutary action...

[*Latin ed. p. 472*]

472 LETTERS: These chains gravely harm souls. They violate the just freedom of citizens and the faithful, promote and sanction illegitimate unions; they open the way to new scandals and moral disorders. They disturb the peace of consciences, and they exacerbate the discord between the Church and the State; a discord entirely contrary to the order established by the Creator, justly condemned and deplored by all honest minds, and of which, for certain, the Church was never the true cause. Therefore, Venerable Brothers, who have already perceived the danger, now, strengthened by our words, join your voices to ours, to instruct the flock entrusted to your pastoral care about the nature of this devised law, about the true purpose to which its promoters tend, and about the grave damages it would cause if it were sanctioned, so that the faithful may not be blinded by the false light in which those who hypocritically present it, nor be deceived by the vain sophisms with which they attempt to support it. Inspire courage in these faithful, so that, by all means that are still permitted to them, they may loudly express their complaints, dictated by the duty to defend the tranquility and decorum of families, and by that which is noble and honest in their nature.

nem compedit et vincula, maximo animarum detrimento, magis magisque constringit: These fetters and chains, with the greatest detriment to souls, increasingly constrict.

iustam aequamque laedit civium et Catholicorum libertatem: They violate the just and equal freedom of citizens and Catholics.

illegitimas consuetudines promovet et sancit, novis demum scandalis, ac moralis ordinis perturbationibus latam viam pandit: They promote and sanction illegitimate customs, opening a wide path to new scandals and disturbances of moral order.

animarum insuper pacem turbat acriusque reddit Ecclesiam inter et Civile Regimendissidium: Moreover, they disturb the peace of souls and exacerbate the discord between the Church and the civil government.

dissidium, inquam, quod rerum ordini a Deo Creatore constituto prorsus oppositum; quod omnes honesti cives iure merito improbant atque deplorant, et cuius pro fecto vera causa nunquam Ecclesia fuit: I say, a discord entirely contrary to the order of things established by God the Creator; a discord which all honest citizens justly and rightly condemn and deplore, and of which, for certain, the Church was never the true cause.

*Vos igitur, Venerabiles Fratres, qui periculum iam animadvertistis, nunc vero verbis hisce nostris confirmati, nostrae et vestram vocem, ut gregem pastorali curae vestrae commissum, quaenam sit verahu ius legis indoles edoceatis, oppor tune adiicite; quinam praeterea scopus,

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quo eiusdem auctores spectant, quamque gravia damna, ead emlex, si quando sancita esset, afferret; ne Fideles fucata luce, qua hi eam simulate exhibent, sibi mentis oculos perstringi, neque fallacibus sophismatibus, quibus eamdem sustentare adnitantur, se decipi sinant. Animum iisdem F i delibus addite, ut omnibus, quibus adhuc uti sibi licet, adminiculis, questus suos, familiarem tranquillitatem decusque protuendi iure officioque, potissima naturae suae:* Therefore, Venerable Brothers, who have already perceived the danger, now, strengthened by these words of ours, let your voices, and ours, teach the flock entrusted to your pastoral care what is the true nature of this law, and add what is appropriate; furthermore, what is the purpose to which its authors tend, and what grave damages it would bring if it were ever sanctioned; so that the faithful may not have their minds blinded by the false light with which these present it, nor allow themselves to be deceived by the deceptive sophisms with which they attempt to support it. Inspire courage in these faithful, so that, by all means that are still permitted to them, they may express their complaints, by right and by duty, to defend the tranquility and decorum of families, and by that which is most noble in their nature.

[*Latin ed. p. 473*]

They possess a true and strong faith. Let them demonstrate that, while they are ready to give unto Caesar that which is Caesar's, they will never allow that which is God's to be taken away from God; and if they desire to conduct themselves as good citizens in their earthly homeland, they desire even more to aspire to the heavenly homeland, where they are called to become citizens of the saints. Furthermore, concerning your clergy, who give outstanding and constant proofs of zeal and self-sacrifice, have words of encouragement and charity for them, so that in this present struggle they may show themselves worthy of Him who, sacrificing Himself for the salvation of the world, chose them for the high office of co-workers in so great a work. Let them have the prudence to avoid unnecessary conflicts, but let them also demonstrate the strength to place the interests of Jesus Christ, of His Church, and of souls above all other things. When the storm rages, the helmsman must double his vigilance and alacrity to prevent shipwreck; and this is the time when everyone who has a share in the sacred ministry must say with the Apostle: "But I most gladly will spend and be spent myself for your souls: although loving you more, I be loved less." 2 Corinthians 12:15. Let them, with dignity and honor, and with the most impressive truth and excellence of their faith, speak words that are worthy to be elevated to the highest degree. Let them openly declare that, although they are ready to give unto Caesar that which is Caesar's, they will never allow that which is God's to be taken away from God; and if they desire to conduct themselves as good citizens in their earthly homeland, they desire even more to aspire to the heavenly homeland, where they are called to

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become citizens of the saints. And to your clergy, who publicly offer proofs of zeal and virtue to the people, offer more lively words of exhortation and charity, so that in this struggle they may show themselves worthy of Christ, who sacrificed Himself on the Cross for the salvation of the world, and who called them to perform so glorious a task, and chose them as partners in this most excellent work. Let them indeed act prudently, so as to avoid useless conflicts; but let them also demonstrate that they are endowed with virtue, so that they may place the glory of God, the dignity of the Church, and the salvation of souls above all other things. When the storm rages more fiercely and furiously, then it is necessary for the helmsman to increase his vigilance and alacrity; and this is the time when those who are partners in the Sacred Ministry must say with the Apostle: "But I most gladly will spend and be spent myself for your souls: although loving you more, I be loved less." 2 Corinthians 12:15.

[*Latin ed. p. 474*]

474 LETTERS. For this very purpose, imploring upon all of you, our beloved Son and Venerable Brothers, the fullness of heavenly favors, we impart to you, with a heartfelt outpouring, the Apostolic Blessing. From the Vatican, on the 8th of February, 1893. To obtain this, we beseech God, that He may abundantly pour forth His blessings upon all of you, our beloved Sons, and Venerable Brothers, and we impart to you, from the depths of our heart, the Apostolic Blessing. From the Vatican, on the 8th of February, in the year 1893. LEO XIII, POPE. FROM THE HOLY CONGREGATION CONCERNED WITH THE EAST AND MARSORUM. On the 25th of January, 1893. Sesia, chapter 25, concerning reforms. SUMMARY OF THE MATTER. The Bishops of the Dioceses of Nuceria and Marsorum, having transmitted, in the past year, reports concerning the status of their churches to the Holy Congregation, in chapter LY, concerning requests, and having considered it necessary to seek the judgment of the Holy Congregation concerning the collection of tithes, wrote as follows: "Since the Italian laws, which abolished tithes, have granted a certain compensation to the parish priests, it is very difficult to persuade the inhabitants to continue to pay tithes, unless they wish to redeem this burden, or to reach an agreement concerning it. On the other hand, the parish priest is often the creditor of the tithes in the external forum, and the judge in the internal forum of those who have not fulfilled these obligations. Would it not be considered improper and dangerous if, especially among the uneducated, he were to absolve almost everyone?"

[*Latin ed. p. 475*]

"NUCERINA and MARSORUM: Do the pastors collect from their parishioners what they owe them, at least through a settlement, as much as they deem fitting? Therefore, what practical instruction should be given

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regarding the establishment of a settlement, or regarding the denial of absolution to those who have not made a settlement? And the Bishop of MARSORUM added: 'Tithes, or Sunday offerings, or land taxes, are not paid by the parishioners, nor by others, even after the Holy Penitential Instruction of September 2, 1887, which was made known to all. What should be done?' The Consultor stated: 'The discussion of the question proposed for resolution is insightful, and it carries a certain weight of difficulty, certainly not insurmountable, which, however, I must frankly admit has left me somewhat perplexed. Everyone sees the practical aspect, and when it comes to actions, the matter is always presented in a complex way; it is difficult to avoid extremes and to maintain a middle course. The present question concerns a pastor who, in the external forum, has the right to collect tithes, but in the sacramental forum, he finds debtors who neither pay the tithes, nor at least seek to make a settlement with him. Since the tithes are due to the pastor, materially by natural and divine law, and formally and as to quantity, only by ecclesiastical law, can he grant absolution to those who neglect to fulfill their duty, perhaps believing that the Italian law abolishing tithes is not unjust, and that they are therefore exempt from this obligation? I do not ignore,' the Consultor continued, 'that there are some Theologians and Canonists who, on the part of the pastor, defend the right to collect tithes, and on the part of the faithful, the duty to pay them, to such an extent that in no case is it permissible for the pastor to overlook or conceal anything; and that the faithful are never exempt from the obligation to pay them. They consider tithes to be debts owed to God; therefore, the pastor is obliged to do everything to obtain his right; and the faithful must be compelled in every way to fulfill their obligation. Therefore, with regard to our matter, it is customary to distinguish between: either the sin, or the non-payment, is notorious, or it is hidden..."

[*Latin ed. p. 476*]

476 In NUGERINA and MARSORUM, if the parish priest knows that tithes have not been paid, he can refuse to administer the sacraments; however, if he knows this secretly, that is, if he learns it in the sacramental forum, he must absolve those who are indebted. This is in accordance with the teaching of the Council of Trent, Session 25, Chapter 12, which states that those who do not pay tithes should not be absolved, unless they make full restitution, since the payment of tithes is due to God, not to men. The Council emphasizes this, adding that those who do not pay or prevent others from paying are invading another's property. This provision does not seem unjust, nor excessively strict; for even before the Council of Trent, in the Decretals and in the Sixth, title on Tithes, it is widely asserted that tithes are not instituted by men, but by the Lord Himself, and that they are to be considered as a true and proper debt; those who neglect them, and

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even more so those who refuse to pay them, must be compelled with all ecclesiastical severity. And lest anyone claim an excuse for avoiding this obligation, the Decretals affirm that tithes are privileged debts, which precede taxes and tributes, as is stated in Chapter 33, "Cum non sit in homine." These and other harsh words are found there, from which it is abundantly clear that the Church uses severity in this matter, because those who do not pay tithes are bringing the divine hand upon the field. Therefore, what is surprising if the ancient Canonists and Theologians go so far as to teach that those who do not pay tithes must, in every case, be denied absolution. However, this severity must be taken with a grain of salt, as the saying goes; and, if I am not mistaken, in the specific case presented, considering the circumstances, I believe that the parish priest cannot absolve those whom he knows have not paid tithes in the sacramental forum. I preface this by stating that this does not apply to those who sufficiently understand that tithes are to be paid, but to the uneducated, who do not understand that the Italian law abolishing tithes is unjust and sacrilegious; rather, it applies to those whom, if the parish priest were to absolve, would cause scandal, as if he were trying to deprive those who do not pay of the benefit of absolution, and in a more effective way, to...

[*Latin ed. p. 477*]

NUCERINA and MARSORUM (Avezzano) 477: Rarely, for spiritual reasons, one should refrain from demanding what is due, and lead the person to a means of profit. The Angelic Doctor, *Summa Theologica*, 2nd Part, 2nd Section, Question 83, Article 8, 5th objection, teaches that temporal things must sometimes be relinquished, due to the scandal that arises from ignorance and weakness, which cannot be effectively dispelled by admonition. This conclusion is confirmed by the Angelic Doctor with the most wise determination of the Apostle Paul, who in 1 Corinthians 9:9 states: "For neither do we preach to you for reward; but we give you the Gospel of God freely." Although he did not ignore that he who serves at the altar should live of the altar, and that he who sows spiritual things ought to reap carnal things, nevertheless he did not wish to exercise this power, lest he might give offense to the Gospel of Christ, and in the meantime, he taught those ministers of the Gospel that they ought to temperance, discretion, and prudence in demanding temporal things, from those to whom they administer the Sacraments. The Angelic Doctor uses this authority to explain that the Church sometimes refrains from collecting tithes; and as Caietanus observes in his commentary on the same passage, it is sufficiently understood how much of temporal things the Church ought to esteem, and how easily such things ought to be relinquished, lest the faithful fall into temptation, and into the snare of the devil. Elsewhere, namely in Question 87, Article 1 to 5, he affirms the same. He states that the ministers of the Church ought to have greater care for promoting spiritual goods in the people, than for

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collecting temporal things. Furthermore, although tithes are sacred dues, they do not lose the nature and character of temporal goods. Therefore, insofar as temporal things are subordinate to and subject to spiritual things, no one will go astray. Hence, if spiritual things are denied because tithes, although required, are not paid, an injustice should not be tolerated. The inescapable principle is that temporal things are subordinate to spiritual things, and whenever spiritual things are produced from temporal things collected, the collection should either be prudently postponed, or entirely neglected, lest greater and more noble things, namely spiritual things, be lost through the collection of lesser goods. Furthermore, in actual fact, the author of the treatise affirms that there are not lacking faithful who neglect the obligation of paying tithes, nor do they seek to make an agreement with the parish priest, because of this.

[*Latin ed. p. 478*]

478 The people of Nuceria and Marsorum believe that they are not obligated, and in the meantime, this sentiment, although born of good faith, cannot be dispelled by any admonition. Indeed, if such individuals were to be dismissed as absolved solely because they are known not to pay tithes, and they cannot be induced to fulfill this duty, it seems to me to present a scandal, as if temporal matters were being placed before spiritual ones. This circumstance is so grave that the Angelic Doctor did not hesitate to add the following to the passage cited: "The Apostle did not wish to use the power given to him by the Lord, so that he might receive sustenance from those to whom he preached the Gospel, lest an obstacle be placed in the way of the Gospel." Similarly, it is praiseworthy for the ministers of the Church not to demand tithes, where it cannot be done without scandal, either due to custom, or for some other reason. Therefore, the scandal, which the uneducated might endure, according to the Angelic Doctor, and other theologians and canonists, is rightly considered a sufficient reason to prudently postpone the collection of tithes. Thus, Caietanus, 1. c., Layman, book VI, chapter V, no. 4, and, significantly, Ioannes Aloysius Ricci, decisions 195, part 4, from the decisions of the Neapolitan Curia. This scandal is so grievous because it is presented by the parish priest, who is, by his office, bound to encourage and care for his faithful so that they may receive the sacraments as frequently as possible. Meanwhile, he deprives them of the greatest good and, therefore, refuses them the means of sanctification, in order to prevent them from avoiding a temporal loss of no value. Whether this course of action is expedient, and whether it is fitting for the parish priest, let the Most Wise Fathers judge. He who presents this course of action, and demands what should be done in practice, rightly observes that it is improper and inconvenient for the parish priest, who administers the sacrament of Penance, to dismiss his debtors as absolved. The impropriety is so great that, I add, it is a form of inordination! For the parish priest

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would be constituted as a judge in his own cause, which is never permissible, although he may be a judge in other matters. It is permissible to add another reason to those presented, which, if it is not...

[*Latin ed. p. 479*]

NUCERINA and MARSORUM (Avezzano) are of the same strength and of the same efficacy, and I do not think they should be disregarded. For the Angelic Doctor, and with him the Theologians, not of obscure standing, such as Layman after Cajetan and Suarez, on the one hand affirm that Prelates of the Church sin if, being negligent and harsh towards those who are to pay tithes, they do not, by every means possible, compel them; on the other hand, they teach that it is possible to remit them for a time, and to prudently dissimulate, whenever a sufficient reason seems to suggest it, because it is not credible that the Church would wish that tithes be demanded from the faithful with such rigor. And if to these grievances we add those with which the faithful are burdened by the Italian government beyond their means, the Church, being a truly good mother, who is always moved and inclined to show mercy and to alleviate the needs of her children, ought to remit, rather than demand, the payment of tithes. For the pious mother detests imposing any burden, nor does she allow her faithful to complain about her actions, and, as far as she can, she removes the occasion of any just lamentation. Moreover, they might justly complain if she were to add burdens to burdens, pain to pain, and make her faithful poorer, whom she professes to love so much, if she were to demand the payment of tithes so strictly, and to exclude those who do not pay from the use of the sacraments. Someone might say: Tithes are so due that it does not depend on the power of the parish priest to remit them, and the obligation to pay them always rests upon the faithful. Therefore, those who refuse to pay them, and the parish priest who neglects to demand them, sin mortally. And indeed, although tithes are due to the Church, it is never permissible for the parish priest to alienate Church property, as is clearly deduced from the Extravagant *Ambitiosa*?: but it is forbidden to the faithful to withhold sacred things. To all of this must be added what is inconvenient and intolerable: namely, if the parish priest is remiss in demanding tithes, the faithful might, in the future, improperly allege the right of prescription, and thus be completely excused from paying the sacred debt. Certainly, this difficulty should not be overlooked. I repeat again...

[*Latin ed. p. 480*]

480. The dues of Nuceria and Marsorum are materially and according to substance, due by natural and divine law; concerning the quota, they are due only by ecclesiastical law. Indeed, the government, having unjustly abolished tithes, has substituted a compensation, although not perfectly, at least partially. The parish priest can certainly demand the promised com-

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pensation, always preserving the right to collect tithes, nor does the established justice of the abolition invalidate this, as is clear from the recent instruction of the Sacred Penitentiary, dated September 2, 1889. Indeed, that which is due by natural and divine law can never be remitted, unlike that which is due by ecclesiastical law. Whenever a grave reason arises, the Church does not impose a burden that causes serious hardship. A fortiori, when something that offends natural and divine law is required by ecclesiastical law, the latter must give way, as the higher and more noble law should prevail and overcome. Indeed, we have seen that it is improper, and causes scandal, to demand the repetition of tithes in the administration of the sacrament of penance; therefore, it is proper to remit them, because when scandal is present, it is more proper to remove the scandal than to observe ecclesiastical law. The parish priest would undoubtedly sin if, without any valid reason, he renounced tithes; he would not sin if, in the presence of a reason such as is mentioned in the case under consideration. However, the faithful, acting in good faith, sin materially, just as those are said to sin materially who refuse to satisfy a debt in solidum, and who are unable to fulfill the same obligation without causing harm. It cannot be said that the parish priest is alienating Church property. He does not properly alienate it, but rather, he yields to particular circumstances that otherwise would suggest otherwise. Or, to use the words of Suarez, this is not a repetition, and prudent silence regarding tithes due to the Church is not an alienation of the Church's rights, but rather of certain revenues which he does not demand for a just reason. Furthermore, the prescription that takes place in the external forum does not apply in the internal forum. Moreover, in order for a lesser amount to be prescribed in place of the full tithe, it must always be established that the possession in question exists, so that if the pastor demands the full tithe, it is denied to him, and he obtains the lesser amount. In this case, however,

[*Latin ed. p. 481*]

NUGERINA and MARSORUM are ceded, but remain silent. Furthermore, no prescription, nor any custom, even one of long standing, ought to prejudice an acquired right, nor extinguish it, when a singular circumstance, and a force majeure, impede its repetition. For these reasons, I deem it necessary to respond to the proposed question, that the parish priest ought prudently to conceal the fact, and not to absolve those who do not pay tithes. Having stated these things, it was deemed necessary to expound the following doubt: Whether the method of acting, whether by the Bishop of Nuceria or by the Bishop of Marsorum, ought to be observed in this case.

RESOLUTION. The Sacred Council, having discussed this matter on January 28, 1893, gave the following response: Provided by the Instruction of the Holy Penitentiary of September 2, 1887 (1).

(1) See the Instruction, concerning the collection of tithes after the abo-

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lition of the civil law, which we cited in Volume XX, 203.

PENITENTIARY INSTRUCTION To the Ordinary Authorities in Italy, concerning tithes, after the abolition by civil law.

In order that the clergy, and the consciences of the faithful, may be aided, who have recently been brought into common difficulty by the promulgation and execution of the law which abolishes tithes, as much as is possible at present, the Sacred Penitentiary, with the benevolent approval of the Most Holy Pope Leo XIII, communicates the following regulations to the Bishops and other Ordinary Authorities in Italy.

I. Firstly, the Ordinary Authorities, in whatever manner they shall deem it opportune, shall instruct the faithful that the right of the Church to receive tithes could never have been taken away by the civil authority, and therefore the faithful are entirely bound to pay them, just as before, and that they cannot be freed from this burden and obligation except by the ecclesiastical authority alone.

2. Therefore, that a more accessible path may be opened for the faithful to consult their consciences, and to obtain a permanent release from the burden of paying tithes, the same Ordinary Authorities shall encourage them to petition for a just redemption of the tithes, or even, where the circumstances permit, for a fair settlement concerning them. For this purpose, the Sacred Penitentiary, with special and express apostolic authority, grants to all the Ordinary Authorities in Italy the necessary and appropriate faculties for a period of five years.

3. When the tithes have been redeemed or settled, the price of the same shall be determined by the prudent judgment of the Ordinary Authorities, according to the particular circumstances of each case, and shall be placed in a safe, honest, and profitable investment; and the fruits shall be applied to the benefit of institutions or pious works which have suffered damage.

4. Those who have neither redeemed the tithes, nor in any way settled them, and who have refused to pay them fully to the cathedral or to other churches or persons to whom they are legitimately due, shall not be absolved unless they make full restitution (Conc. 31).

[*Latin ed. p. 482*]

482. OF THE BENEFICE OF THE PENITENTIARY AT ACERRA. July 23, 1892. Through a summary of petitions, a COMPENDIUM OF FACTS. On May 14th, letters recently arrived at the Sacred Congregation, in which the Bishop of Acerra explained and requested the following: The chapter of the cathedral consists of twelve canons, among whom are three dignitaries and a penitentiary, who completes the number of twelve. Each dignity and canon has his own and distinct benefice. In addition to these, there is a common mass, from which, after deducting expenses, the remainder is divided among the canons and dignitaries, except for the penitentiary, who

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was founded in the year 1828. All the canons desire to partake of this mass, although it yields only 100 florins to each canon per year; and the penitentiary himself desires to be granted a canonical benefice, both to avoid a laborious office and to be admitted to the participation of the mass. This method of proceeding is presented to the people with admiration, and it is not permitted that a penitentiary, mature and imbued with the best experience, should seek, in an unheard-of manner, to obtain, within the chapter, the co-option of the penitentiary among the canons participating in said mass; and this matter can easily be accomplished now, since two benefices are vacant: either by ensuring that the last canon lacks this distribution until he is replaced by another in the last benefice. (Tridentine Council, Session 25, Decree on Reform, Chapter 12), provided that the rules approved by the traditional authorities regarding those who labor in poverty or destitution are observed. 5. Furthermore, let it be known that ordinaries are permitted to request compensation from the government for damages suffered by themselves or by their clergy, provided that nothing in such a petition contains anything that could be drawn into a secular power for the purpose of disposing of tithes, and that it is expressly stated that the compensation requested is solely for the purpose of legitimate indemnity. 7. Finally, let each one report to the Holy See the extent to which the suppression of tithes has been detrimental to their dioceses. From the Sacred Penitentiary, September 2, 1887. CARD. MONACO, Prefect. P. HYPP. CAN., Secretary. M. PALOMBI.

[*Latin ed. p. 483*]

483 Acerra. A Synopsis of the Dispute. GRACE SEEMS TO BE DENIED. Although the proposal of the Bishop of Acerra appears, at first glance, to be laudable, it nevertheless seemed to be entirely inconsistent with the law and in every way improper. Indeed, if a penitentiary, as the Prelate requests, were to be admitted to the common mass along with the eleven canons, it would entail some diminution of the portions of fruits due to them, and therefore, contrary to the text, "in cap. Si quando, de Rese iptis, the rights of the ancient canons would be violated. This violation would not pertain to individual beneficiaries, but would occur to the detriment of the entire chapter, whenever the newest canon was excluded from the share of the common mass. For it would be contrary to the law of the foundation to deprive a canon of ancient standing of the revenues of the mass, and to assign those same fruits to a penitentiary, who has contributed nothing at all to the mass. In this matter, see Cardinal De Luca, *De canon*, book 12, number 13: "As long as new canons are assigned their own and particular fruits, they must be content with them, and they cannot claim a share in the ancient mass, especially when the establishment, or consent to the establishment, given by the chapter is pure, but with the reservation of their own right." This is consistent with the decree of the Sacred

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Congregation of Propaganda Fide in Novara, precedentiae, July 3, 1713, concerning Canon Lancetta, and on December 11 of the same year, before the Congregation. Furthermore, since, according to the sense of the cited chapter, concerning those things done by a private individual without the consent of the chapter, it is clearly prescribed that the chapter should be heard "especially concerning those things which pertain to the chapter itself," and although the Sacred Congregation sometimes supplements the consent of the chapter,

[*Latin ed. p. 484*]

484 In Acerra, however, it is entirely contrary to established practice to decide anything without first hearing those who are primarily concerned, and to grant them a suitable time to present their arguments. GRACE SHOULD BE EXTENDED. Nevertheless, it is advisable to note that, according to Cardinal Petrucci in Const. II. Innocent. VI., n. 24, vol. 4, it appears that theologians or confessors, who undertake a greater burden, should permanently receive smaller benefits than other simple canons. For this reason, the Sacred Congregation has often granted permission for both to choose the more generous option once, or even repeatedly, as other canons do, with the added condition that, if one should become wealthier, the option designated for the confessor or theologian should be understood to be permanent. Sacred Congregation, in Mele vitalia, February 29, 1726; Regien. Optionis, June 7 and July 12, 1755; Vol terrana, Juris optionis, July 20, 1793; Bellunen, April 25, 1864, etc.; Lucidi, vol. 1, chap. 3, n. V. Furthermore, since the confessor in the cathedral of Acerra enjoys smaller revenues and benefits than the others, it would seem advisable to consider an increase in his compensation in order to comply with the law. Even more so, because, as the Bishop reports, the miserable condition in which the canon confessor finds himself, due to frequent absences, provides a reason that is certainly contrary to the salutary function that he should be fulfilling, and therefore contrary to the sentiments of the Fathers of Trent. Nor did it seem necessary to seek the consent or at least the opinion of the chapter for the granting of such a grace. Indeed, since this provision, especially the one proposed in second place by the Ordinary, does not cause any detriment to the other canons, and since it is known that the common good of the faithful should prevail over the private good of individuals, there was a sufficient reason to supplement the consent through the Sacred Congregation, as can be gathered from Sabinen, June 2, 1796, and others mentioned on the page Erectionis Canonicatuum, January 25, 1738, etc. This might perhaps be more easily granted, considering the mind of the Fathers of Trent, as taught by Cardinal De Luca.

[*Latin ed. p. 485*]

ACERRA 485, De Beneficiis, Disputation 28, number 2, decreed that all

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provisions concerning the granting of pensions, whether in the initial appointment or in subsequent vacancies, should belong to the Ordinary, without any participation of the chapter. Having stated these things, the question was raised as to what should be answered in prayer. RESOLUTION. The Sacred Congregation, having knowledge of the matter, on July 23, 1892, decided to respond: It is not advisable. LIMA, CONCERNING THE DISTRIBUTION OF FUNDS TO THE CHOIR, August 27, 1892. Session 24, chapter 12, concerning reforms. SUMMARY OF THE MATTER. In the year 1543, the Cathedral Chapter of Lima, with the authority granted by Pope Paul III of Rome, and with the favor of the Catholic King of Spain, first established that the stipends or revenues of all canons should consist of daily distributions. Thus, the distributions of those absent would be added to those present. Furthermore, these same provisions are found in even clearer words in the choral rules, commonly called "regulae choralium," which the Archbishop Turibius of Lima handed down to the chapter of his church in the year 1593, for observance. However, it is not permissible to gather from the records to what sum of money the distributions assigned to each canon per hour amount. The Apostolic Delegate of Peru only points out that formerly, the "decimas" constituted the chapter's mass, now an irregular payment to the civil government. Furthermore, it should be noted that, by virtue of the aforementioned decree of erection, it was formerly permitted for canons to extend their choral vacations up to four months, until the Lima Synod in the year 1583 limited them to only one month. Afterwards, as noted in...

[*Latin ed. p. 486*]

486 In Lima, concerning the regular canons, it is stipulated that vacations, that is, periods of three months, are permitted. Furthermore, two legitimate reasons for absence are admitted, namely, infirmity which often causes suffering, and a privilege or dispensation. Severe penalties were established against those who falsely claimed to be ill. However, despite these regulations, various abuses gradually crept into the choral service of the metropolitan church of Lima. The Apostolic Delegate reports that the law is harsh, whereby a canon either gains everything or loses everything; consequently, it sometimes happens that canons, twenty years ago, did not pay their dues. Considering this abuse, the chapter, in its capitular meetings held on December 11th and 12th of the aforementioned year, and desiring to provide an effective remedy, ordered its Dean to present petitions to the Sacred Congregation for the Propagation of the Faith, requesting that daily distributions be reduced to only one-third of the total revenue, according to the decree of Trent, and that absolution and forgiveness be granted for past transgressions. Before transmitting these petitions to the Sacred Congregation, the Apostolic Delegate of Peru consulted with the Archbishop of Lima, who, as will become clearer from what follows,

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expressed a view contrary to the chapter's petitions. A summary of the arguments. WHAT SUPPORTS THE CHAPTER'S PETITIONS. Firstly, the Dean of the Chapter observed that, although the Council of Trent, in Session 21, chapter 2, concerning reform, expressly decreed that the customs "of those churches in which those who do not reside or do not serve receive nothing, or less than one-third," should be maintained, it was nonetheless sufficient to encourage canons and other beneficiaries to diligently perform their choral service if only one-third of the revenues were converted into daily distributions. From this, he notes that the chapter's petition in Lima is not only in accordance with the prescriptions of the law, but...

[*Latin ed. p. 487*]

Lima 487, while perhaps appearing contrary, may in fact, perhaps even more so, be more suitable for them, given the stricter discipline there. It is noted that, according to the practice of the Sacred Congregation of the Council, it has been determined that where all or almost all of the benefits consist of daily distributions, as in the case under consideration, two-thirds of them should take the nature of benefits, and the remaining third should be considered distributions, in the sense in which that term is usually understood. Fagnanus, in chapter "De Cetero de cler. non resid." Schmalzgrueber, "Jus Can." ibid., title, no. 49. The Sacred Congregation of the Council, in "Herden," March 3, 1792, in Fermo, May 6, 1843, §, and in Trent (Trento), December 20, 1892, etc. Furthermore, if the words of Trent are expanded, it is clearly evident that the Holy Synod, when establishing the law regarding distributions, primarily intended to make those attached to the choir diligent, and those who were slow, assiduous. Indeed, if such a goal cannot be achieved in the chapter of Lima due to the stricter discipline, in order that the most salutary arrangement not be deprived of its strength, recourse should be had to common law, as requested. It appears that the Sacred Congregation has also taken this view, when on August 24, 1867, in a very similar case, in the chapter of the ConcepciÃ³n in Chile, where the income of the canons consisted only of daily distributions, and such a practice had brought about several inconveniences, it granted permission that the distributions be reduced to only one-third of the income. However, the Dean of the chapter argues that the excessively strict discipline in this matter provides an opportunity to violate the law, because when all the benefits are distributed, there is no benefit; and therefore, the canons are deprived of all emolument during the vacation of the council. For, according to the jurisprudence of the Church, at this time the canons do not profit from the distributions, although all the income comes from those same distributions, and the opposite is the usual custom. This custom prevails in this chapter; because the canons are absent from the choir for 90 days, during which they receive no income. In this matter, the practice of the universal Church must be corrected by the chapter, because, according to

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it, the canons should either not [receive income] or [receive income];

[*Latin ed. p. 488*]

488 In Lima, one may enjoy vacations, or, during these periods of rest, bid farewell to all revenues. Furthermore, the aforementioned Dean recalls that, since the year 1871, this matter has been brought before the Chapter for examination, and that on September 15th of that year, prayers were offered to the Apostolic Delegate, signed by all the canons, including those who were then, and are now, archbishops. However, for various reasons, the matter remained unresolved. He states that, in more recent times, the matter was resumed after some canons, delegated by the Chapter, diligently examined everything and came to the conclusion: that it would be more advantageous for the Chapter to adopt, as a messenger sent to restore the ancient discipline, the practices of the Council of Trent, preserving what ought to be preserved, with regard to daily distributions. Consequently, a resolution was reached on this matter by the Chapter, as mentioned above; and this resolution is to be considered approved not only by the majority and more prudent part of the Chapter, but also by the entire present Chapter, and indeed, without any dissent from those absent. Having noted these matters more clearly, in order to address the difficulty, which will be discussed below, it seems scarcely necessary to add that, according to the law, in only one case is the consent of each individual required in the Chapter, namely, when the matter directly and separately concerns an individual, or when this matter concerns individual canons separately, and their judgment directly and primarily affects them; otherwise, the majority and more prudent part of the present Chapter must be considered, as is also established by law: and the majority is considered to be where the number of those voting is greater, while the more prudent part is that which consists of men more distinguished by dignity, age, prudence, and piety. Cf. Reifenstuel, book 4, Decretals, title 11, on those things which are done, etc., number 20. Furthermore, since the number of those voting has already been mentioned above, I will add only that the number of those who vote should also be considered as the more prudent part, with respect to the Chapter as a whole. For among

[*Latin ed. p. 489*]

In LIMANA, 489, the voting canons, both of the Magistral and Lectoral ranks, and three others holding positions of authority, are counted; of these, two are further distinguished by the episcopal character. Finally, those who have presented the aforementioned requests seem to wish to commend the second part of these requests to the benevolence of the Most Reverend Lords. From the facts presented, the Dean stated, it is clear not only that the practice of these distributions in this chapter is ancient, but also that its duration can only be explained by the difficulties inherent in

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the ancient discipline, by which a canon either receives the entire income or loses the entire income.

WHAT IS OPPOSED TO THE CHAPTER'S PETITIONS. Nevertheless, the Archbishop declares that neither part of the requests should be accepted, and he emphasizes, above all, the law concerning distributions, sanctioned by the Council of Trent in chapter 3 of session 21 on reform. There, it states: "The Holy Synod decrees that in cathedrals and collegiate churches, in which there are no daily distributions, or in which they are so meager that they are practically neglected, one-third of the fruits and all other revenues and income must be set aside and converted into daily distributions." From this law, it is clearly evident that the separation of one-third of the fruits, etc., and its conversion into daily distributions does not apply in those churches in which distributions exceeding said one-third are found, or even in those in which the fruits and revenues are entirely devoted to those distributions. And this is made even more clear by the fact that the same Holy Synod, in the aforementioned passage, expressly adds: "provided, however, that the customs of those churches are preserved, in which those who reside there, or who serve there, receive nothing, or less than one-third." Given these legal considerations, the Archbishop of Lima added, it must be considered that the particular distribution system in force in his metropolitan church has been established according to the statutes, adapted to the nature of the persons involved; thus, if, contrary to these statutes, the distributions are reduced to one-third,

[*Latin ed. p. 490*]

490. If a portion of the fruits were to be reduced, these [concerns] would likely be overlooked. For the canons, assured of two portions from the revenues, would pursue other endeavors, neglecting the service of the choir. Furthermore, it must not be overlooked that such statutes were enacted, knowing the character of the people of this place. He believes that even greater emphasis should be placed on these statutes, because not the entire chapter favors this modification, but a smaller part; nor is the sentiment of the chapter clearly discernible in the two main reasons upon which its petitions for the introduction of a new distribution system are based. Indeed, these two reasons seem inconsistent: namely, to establish a fixed income in two portions of the fruits for the diligent and the negligent; and at the same time, to fulfill the choral service with greater diligence in the future, while allocating only one-third of the fruits to the diligent for daily distributions. Therefore, the Archbishop adds: "We believe the old discipline, by which a penalty is gradually applied according to the degree of negligence, to be stricter and more effective." Therefore, having brought matters to this point, the Archbishop concludes, adhering to the goodness of this practice, by which the honor of the Church is preserved and the memory of our predecessor, Saint Turibius, is duly observed, that it is necessary to follow

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the example of Saint Stephen I, and to introduce nothing new except what has been handed down. For over three hundred years, no one has thought to change these statutes, but they have been faithfully observed. Regarding the second part of the petition, the Archbishop of Lima observes: "It seems to me that not all of those who receive daily distributions have done so improperly; therefore, only those who are burdened by this fault should individually seek absolution." And this seems reasonable, both because it might not be appropriate to grant absolution indiscriminately to all, without knowledge of the causes, which may be different for each individual and deserve greater or lesser indulgence; and also because...

[*Latin ed. p. 491*]

491 LIMANA, because it appeared that, due to the fault of some, the entire chapter of negligence was unjustly noted. Having considered both of these matters, the purpose was to resolve the doubt concerning whether and how the petition of the chapter of the metropolitan church of Lima should be approved in this case. RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter on August 27, 1892, decided to respond: Affirmative in all respects, according to the petitions of the chapter, with prior absolution regarding the past. From WHICH ARE GATHERED: I. That it more fully conforms to the dispositions of law that one-third of the fruits be converted into daily distributions, as commanded by Trident. II. That, with this disposition, Trident understood that the canons and other beneficiaries should be encouraged to perform choral service with due diligence. III. That the custom in question, although stricter, seemed to lack its former strength, and therefore it was necessary to revert the matter to common law, according to the requests of the Canons. OF THE INDULGENCE OF SAINT JAMES OF CHILE. On December 10, 1892. SUMMARY OF THE CASE. The Reverend Father Joseph Raymond Saavedra, canon of the metropolitan church of Saint James, having reached the age of 70 years and suffering from a long and incurable illness, presented medical certificates to the Archbishop and requested that he be declared exempt from choral service. Indeed, the Archbishop, having heard the chapter and the earnest plea of the promoter of the justice of the court, and having yielded to the opinion of certain Doctors and the unusual practice there, issued a decree on January 7th of the following year.

[*Latin ed. p. 492*]

492 To Saint James of Chile, the canon Saavedra was granted permission to be absent from the choir, but with the condition that, according to the custom prevailing in that metropolitan church, he should be replaced by one of the canons in his duties as hebdomadary and in the service of the altar. This condition, however, was received with displeasure by Canon

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Saavedra, who therefore petitioned the Archbishop to abolish it. When the Archbishop remained steadfast in his decree, the Chapter decided to refer the matter to the judgment of the Holy See, and humbly petitioned the Sacred Congregation: "1. Can Canon Saavedra be compelled, like the other canons, to perform the duties of hebdomadary and the service of the altar? 2. Should the ancient custom of this Chapter, by virtue of which canons legitimately excused from attendance are obliged to perform these duties, be considered as an obligation?" Synopsis of the Discussion. WHAT FAVORS THE CANON WHO HAS BEEN GRANTED PERMISSION. It must be stated that the Chapter of Saint James, in its collegiate resolutions, completely denied the validity of the asserted custom, and therefore favors Canon Saavedra in all respects. Furthermore, there seemed to be no doubt about the poor health of this canon, since it appeared sufficiently proven by the testimonies of the doctors and by the decree of the Archbishop himself. It may not be superfluous here to note that in the Chapter of Saint James of Chile, there is no common Mass, and therefore, those who perform the duties of canons legitimately absent cannot receive "distributions, nor any emoluments." With these observations, the Chapter invokes the authority of the Council of Trent, which in Session XXIV, chapter 12, De reform., decreed: "All are, by themselves, and not by substitutes, compelled to perform the offices and to assist and serve the Bishop celebrating or performing other pontifical functions, etc." From these words, it is inferred that the obligations of the canons are personal, and therefore, the one who cannot perform them for a just reason should not be compelled to have them performed by another. To this, further strength is added...

[*Latin ed. p. 493*]

Saint James of Chile, with the support of the arguments of many Doctors, namely Garcia in *De Beneficiis*, page 3, chapter 2, paragraph 197; Fagnani in *Nulla De Concess. Praeb.*, paragraph 73; Reiffenstuel in *lib. 3. Decret*, volume 4, *De Cler.*, section not resia, paragraph 4, number 123; and De Herdt in *Praxis Capit.*, page 4, chapter 28, paragraph 10, number 4; all of whom unanimously state that a prebendary who is infirm is not obliged to fulfill choral duties through a substitute. Furthermore, they do not believe that custom should stand in the way of this. Having omitted the inquiry as to the existence of the asserted custom, they maintain that it is irrational and devoid of all strength, and would add affliction to the afflicted, and would be contrary to the sentiments of the Fathers of Trent. Therefore, they also cite the law concerning this matter, as found in Ferraris, *Voc. Canonicus*, article 5, paragraph 40: "Canons who are absent for a just cause are not obliged to leave a substitute, and to serve through him in the meantime, notwithstanding an unforgettable custom." Regarding the practice of the Sacred Congregation, we recall only the decree of Forlì, dated May 27, 1829, in which, when it was asked whether a canon of the

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Church of Forlì, who had been exempted from choral duties by an Apostolic indult for the purpose of study, was obliged to have another perform the weekly recitation and the conventual Mass, even though the Chapter objected, citing an unforgettable custom, the response was: "The petitioner is not obliged."

WHAT IS APPLICABLE TO A CANON WITH AN INDULT. On the other hand, it could be observed that, as stated above in the words of Trent, those who, through negligence and without a legitimate cause, frequently perform choral duties through a substitute are designated. And this interpretation appears to be highly consistent with the practice of many Chapters. Furthermore, the authorities cited by the Doctors do not seem to be entirely relevant, since while they generally exempt the infirm from choral service by having it performed by another, they do not specifically speak of the conventual Mass and the weekly duty performed in turn. Indeed, it seems that they are entirely silent on these matters, and that the matter is to be governed by the statutes of the Chapter and its customs. Regarding this matter, Barbosa in *De Canonicis*, chapter 31:

[*Latin ed. p. 494*]

494 Of Saint James of Chile: "He who is bound by himself to celebrate [the Mass] has an excuse if he is legitimately hindered, so that he cannot then be compelled to celebrate it through another; but he who is obligated to celebrate, either by himself or through another, even if he is legitimately hindered, is nevertheless still bound to fulfill [the obligation] through another." Thus Navarrus, in *Mariale*, chapter 25, paragraph 154. Therefore, it is fitting that, in no case, a canon should fail to fulfill the duty assigned to him of chanting the Masses, even if he is infirm or absent for a just cause, and that a provision should be made so that he may fulfill this duty either by himself or through another similar to himself. "From these passages, at least, it can be inferred that what is prescribed in these constitutions is itself a custom, which is habitually observed in the metropolitan church of Saint James of Chile. Therefore, everything that has been brought forward against this custom should be considered to have fallen. Furthermore, since the canons themselves acknowledge the existence of this custom and proclaim it to be ancient, there should be no doubt about the legitimacy of its authority. The extent of the force of this custom in the matter under consideration can be understood from the passage in the *Tudertina*, book 1, Decrees of the Holy Council, page 86, which states: 'There is an ancient constitution in that church, according to which canons who become infirm receive the fruits of both the benefice and the daily distributions during their infirmity; but a custom has been introduced, according to which the infirm canons receive only the fruits of the benefice, but not the daily distributions. The question is raised in this case whether the constitution, or rather the custom, should be observed.' The following response was given:

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'A legitimate custom should set aside a constitution.' With the foregoing noted, the question was asked what should be answered regarding prayers. RESOLUTION. The Sacred Congregation, on December 10, 1892, decided to respond: 'Affirmatively to both.'"

[*Latin ed. p. 495*]

495 FROM THE SACRED CONGREGATION, BISHOPS, AND REGULAR CANONS. FUNERAL. Countess Achina Mazza, from the parish of the Cathedral Church, on the 18th of April, 1891, at the request of her family, was carried to the Church of the Friars Minor Observant, so that the funeral rites might be completed there. After these rites were performed, the Rector of the Church of the Holy Spirit, with solemn ceremony and a large crowd of citizens present, carried the body to the public cemetery. The deceased parish priest, believing that the Rector of the Church of the Holy Spirit had not acted in accordance with the law in carrying the body to the public cemetery, presented a written petition to the Sacred Congregation of Bishops and Regular Canons, requesting a solution to two doubts, which will be explained shortly. SUMMARY OF THE FACTS. SYNOPTIC DISCUSSION. THE RIGHTS OF THE PARISH PRIEST OF THE CATHEDRAL CHURCH. The deceased parish priest contended that the Rector of the Church of the Holy Spirit could not, without his consent, legally carry the body to the public cemetery, for two reasons: either due to the lack of a suitable burial place; or due to the solemn ceremony with which the body was carried to the cemetery. He argued, first, that it was not due to the lack of a suitable burial place, because even if it were admitted that the Mazza family, at some time, had lost the right to be buried in the Church of the Holy Spirit, this would not be the case now, neither by the will of the family itself, nor by the action of the Friars Minor Observant, due to a contrary custom. Indeed, such a right would have been lost, either by the family Mazza, because, being under the temporal power of the Holy See, they should be considered to have relinquished this privilege; or spontaneously and of their own accord.

[*Latin ed. p. 496*]

496 FERRARIEN. That they have not, for eighty years and more, exercised their right voluntarily, is attested by the witness Thomas, who reports that a certain Joseph Mazza, since the year 1813, constructed a family tomb in the municipal cemetery; and from that day until our present times, the Mazza family has constantly been accustomed to burying the bodies of their deceased in the aforementioned family tomb. Secondly, they claim that this right has been lost on the part of the Minor Observants, since, for many years, they themselves, through their own initiative, constructed a new floor, so that burial in the ancient family tombs became utterly impossible; it is thus clear that the religious privilege and right has remained

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extinct; for it is known that: "a privilege ceases and is extinguished when the thing to which it belongs ceases to exist." Ferraris. V. Sepultura. However, a small point is given, that, notwithstanding the new construction of the floor, they have not lost this privilege; nevertheless, it is noted that the Rector of the Church of the Holy Spirit does not claim any right over the body of a deceased woman, by reason of a family tomb existing in the aforementioned church, because it is evident from the parish records that the aforementioned Anthony, the deceased husband, was buried in a chosen tomb in the public cemetery. Indeed, he says, it is known that, according to the censure of canon law, a woman ought to be buried in the tomb of her husband, even if she has a tomb of her ancestors. Finally, the parish priest argues that such a right has been lost due to a constant custom existing in the city of Ferraria, by virtue of which the bodies of the deceased are first taken from their homes to the churches, even of the Regular clergy, in order that funeral services may be performed there, and then, with solemn ceremony, they are taken from the churches to the public cemetery with the assistance of their own parish priest, who receives the fees. And there can be no doubt whatsoever about the existence of this constant custom; since not a few witnesses, without exception, both in terms of honesty, and of age, and...

[*Latin ed. p. 497*]

FERRARIEN. 497: The knowledge of these matters is worthy of belief; indeed, even the Most Eminent Bishop testifies to this. Moreover, it is established by custom that the parish priest must consider that, according to established law, local customs have the force of law in matters concerning funerals: "In matters concerning funerals, local customs are very often followed, so that, if they have been properly introduced, prescribed, and approved, they obtain the force of law." Acta S. Sedis, Vol. 13, page 179. However, having set aside all these considerations, the parish priest asserts that the Rector of the Church of the Holy Spirit could not, without violating parochial rights, transport the body of the deceased Mazza to the cemetery with solemn ceremony. For nothing is more clearly established in law than that the deceased must be buried by the parish priest from whom he received the sacraments. If, therefore, the parish priest has a legally sound intention regarding the burial, Ferraris V. Sepultura, Cap. 20; to which Barbosa adds, De potestate Parochi, part. 3, c. 36. It may be added: "that parochial rights cannot be exercised in the church of Regular canons: because it is also established in law: 'to revive the territorial jurisdiction of the parish priests, when bodies are taken from exempt churches, for the easy return of each thing to its principles, and because, according to a legal maxim, the place governs the act.' And he says that this is confirmed by the resolution of the Sacred Congregation of Bishops and Regulars, of August 20, 1878, in the case brought against the Reverend Fathers Capuchins,

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where it is written: 'The association of the body until the place of burial is included among the parochial rights; therefore, the association must regularly be carried out by the parish priest in whose parish the deceased died and in which he received the sacraments. Therefore, the Reverend Fathers Capuchins committed an injustice by carrying out the association of the body for burial, even if the place of burial for that deceased person was actually in the church of those Fathers, because the association of the body is included among the parochial rights.'" It is not relevant that the Sacred Congregation answered the doubts proposed by the Religious Order of the Preachers, considering that...

[*Latin ed. p. 498*]

498 FERRARIAN. Religious individuals, without the intervention of a parish priest, may arrange a procession and accompany the body of a deceased Religious individual to the cemetery, with a stole and the customary religious cross; since the Holy Congregation added this restrictive clause, namely: "Provided that the body is carried without solemn ceremony, directly by the family of the religious order to which it belonged." Therefore, since it is a fact that the Rector of the Church of the Holy Spirit carried the body of the deceased Mazza to the cemetery in the manner of nobles, with a solemn ceremony and in the presence of, in addition to the Religious of her own Order, the Fathers of the Capuchin Order and members of the Brotherhood of the Good Death, with a cross and banners, and also 60 servants from the city of Ferrara, all with lit candles, the parish priest concludes that the association of the deceased Mazza, carried out by the Rector of the Church of the Holy Spirit, cannot be maintained, as it is contrary to the aforementioned resolution. Nor can it be argued that this concerns a secular funeral, and not a religious one. For the parish priest, adhering to the doctrine transmitted by Vecchiotti in *Institutiones Canonicae*, Vol. 2, chapter 5, § 62, maintains that the same can be affirmed regarding the association of a secular deceased: "From the decision concerning the funeral of a religious deceased, it can be argued that the same applies entirely to the funeral of a secular deceased who has a designated burial place, either within a religious institution or a family tomb." Furthermore, it is certain that it was the right of the parish priest of the Cathedral Church to associate the body of the Countess Mazza with the cemetery; therefore, it is easily understood that the Rector of the Church of the Holy Spirit must return to the Cathedral parish priest all the benefits received on the occasion of this funeral, since they were obtained unjustly and contrary to the law. And this is also the case even if the aforementioned benefits had been consumed in good faith; as taught by the Holy Congregation in several resolutions, and especially in Gallien, or Urbinate, *De Jure Tumulandi* of August 30, 1817, regarding the second doubt; and in Ilcinen, *De Funeribus et Emolumentis*

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of July 20, 1878, regarding the second doubt.

[*Latin ed. p. 499*]

FERRARIEN. 49. The disposition of the diocesan synod of Mattei is not dissimilar to the teachings of the Most Holy Congregations. Indeed, App. III, part. 3, no. 15, prescribes: "that the heirs of the deceased should pay to their own parish priest the offerings and emoluments, which are called 'spolia,' that would be due to them if the deceased were buried in the parish church." JURA RELIGIOSORUM. On the other hand, the Reverend Procurator General, having been informed, investigated and found that the noble family of Mazza had and still has a family tomb in the church of the Holy Spirit, and that therefore, the right of burial in that church belongs to them. Consequently, it can be argued that the Reverend Guardian of the church of the Holy Spirit has the right to have the body of the deceased Countess taken to the public cemetery, and therefore, the Reverend Guardian should not be blamed for having taken the aforementioned Countess's body to the cemetery. To demonstrate this, he presents a resolution from the Most Holy Congregation of Bishops and Regulars, dated September 17, 1880, concerning the Sodalitas of Saint Philip Neri, which had a chaplain who was buried in the church of the Minor Observants. Furthermore, the following questions were then proposed: "1. To whom does the right belong to carry the bodies from the churches of the Regulars, to whom funeral services have been provided, to the common cemetery, where they must be buried? 2. Do the parish priests have the right to receive the emoluments that are given by the heirs to the priest who accompanies the bodies to the cemetery? 3. Must the Religious, in the association of bodies of which we are speaking, request the parish priest to accompany the deceased to the cemetery? 4. May the Regulars proceed with their customary stole and cross up to the tomb?" The Most Holy Congregation, on the aforementioned date of September 17, 1880, responded: "To the first question, affirmatively, favoring the Regulars."

[*Latin ed. p. 500*]

SOO FERRARIEN, secundum negative. Ad tertium negative. Ad quartum affirmative: "sine pompa et recto tramite." Quibus positis, P. Procurator percipit P. Guardiani Ecclesiae s. Spiritus agendi rationem praedictis resolutionibus undequaque conformem fuisse; ideoque vel momento temporis in dubium revocari haud posse, ius ipsi competere cadaver defunctae Mazza ad commune coemeterium deferendi. Post haec, P. Procurator facit ad diluendas difficultates ex adverso oppositas; et praeprimis denegat, familiam Mazza ammisisse ius sepulturae, quo antea frugebatur, ex eo quod per lapsum 80 annorum huiusmodi iure uti omiserit. P. Procurator enim asserit familiam Mazza hoc iure usam amplius non fuisse a die, qua lege civili vetitum fuit, quominus defunctorum cadavera in Ecclesiis sepeliren-

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tur. Quo posito, auctum familiam Mazza ius sepulturae haud amisisse, tum quia lex civilis vim non habet abrogandi ius canonicum, quod propterea integrum remansit; tum quia tritum in iure est, quod, contra non volentem agere non currit praescriptio; tum denique quia in themate agitur de iuribus facultativis, quae, iuxta vulgatum adagium, neque mille annorum non usu amittuntur. Idem P. Procurator denegat pariter ius tumulandi in Ecclesia s. Spiritus in tenues auras abiisse, quia ob novum pavimentum in dicta Ecclesia a Minoribus Observantibus extructum, tumulatio in antiquis sepulchris gentilitiis impossibilis evaserit. Observat enim, quod tumulationes, post peractum etiam pavimentum, uti antea, possibiles sunt, quia sepulchra gentilitia intacta remanserunt. Quo vero ad solemnitatem et pompam, qua cadaver Comitissae Mazza ad coemeterium delatum fuit, P. Procurator contendit pompam civilem a pompa ecclesiastica distinguendam esse, ut inde inferat, Regularibus pompam ecclesiasticam, non vero civilem vetitam esse. Cum haec huiusmodi haud sit, ut a Regularibus impediri valeat. Porro quod ex parte Religiosorum cadaveris associatio ad coemeterium recto tramite et sine pompa peracta fuerit.

[*Latin ed. p. 501*]

FERRARIEN. 501. It seems to be impossible, in any way, to doubt this, since the fact is established that Father Guardian, wearing a stole and the religious habit, carried the corpse to the cemetery. Furthermore, concerning the question of the emoluments, which are said to have been received by Father Guardian, Father Procurator maintains that they do not need to be returned, even if it were the case that the association concerning the corpse belonged not to Father Guardian, but to the Parish Priest. For the law is that the restitution of either the fruits or the emoluments must only be decreed when there is manifest bad faith in the receiving of the fruits or emoluments. Indeed, from what has been discussed so far, it is far from the case that there has been manifest bad faith in this matter; rather, it must be said that Father Guardian acted in complete good faith when he received the emoluments. If we add to this that such emoluments were received by Father Guardian for the labor and work performed and rendered by him, it becomes even more evident that it is in vain to demand their restitution, given the commonly held axiom that echoes in everyone's mouth: every labor deserves a reward.

Glossa in cap. Charit. 12j (p. 2). After considering the arguments on both sides, the following questions were proposed:

1. Did Father Guardian of the Minor Observants, residing in the Convent of the Holy Spirit, have the right to associate the corpse of the deceased Sabina Mazza with the common cemetery in this case? And, if the answer is negative:

2. To whom, and in what amount, is the Parish Priest of the Cathedral Church obligated to return the emoluments in this case?

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RESOLUTION. After carefully examining the matter, the Sacred Congregation of Bishops and Regulars gave a most prudent response on March 11, 1892: "Delayed. Let investigations be carried out and a report be written to the Most Reverend Archbishop. The question is: whether there truly exists a legitimate custom of associating corpses from a private home to the Church, and whether the Parish Priest intervenes in this association."

[*Latin ed. p. 502*]

802 FERRARIEN. Questions: Whether a solemn association, established by the Church, takes the place of the association from the house to the church; and whether the Parish Priest is always to be present; and whether, in the case where the right of burial belongs to the family, there exists a custom by which the revenues of the solemn association, pertaining to the burial at the cemetery, belong to the Parish Priest. » CONTINUATION OF THE CASE. Shortly after, the Sacred Congregation, having received the matter, the Archbishop, following the established procedure, reported: 1. That there is an ancient custom in the city of Alet, whereby the bodies of the deceased are carried from the house to the church, either by the relatives or by those who have been designated for that purpose, and from the church to the cemetery in a solemn manner; 2. That in both cases, the bodies are always carried with the presence of the Parish Priest; 3. That all revenues, whether due by custom or by law, belong to the Parish Priest; with this distinction, however, that in burials which are carried out privately from the house to the church, the Parish Priest receives only a small offering; 4. That the solemn funeral now takes the place of that which formerly was carried out only from the house to the church. Thus, the single funeral from the house to the cemetery is now also carried out solemnly, whenever the particular church of Alet is not present; 5. That a solemn funeral is held whenever associations or religious families are invited, and the bodies are transported in a carriage of the first or second class; 6. That the legitimacy of such customs, as regards funerals in general, was confirmed by the Diocesan Synod in the year 1781, or before the erection of the municipal cemetery; and that, with regard to funerals which lead to the cemetery of the church, they were established by regulations promulgated by Archbishop Fava in the year 1817, or after the erection of the cemetery; 7. That, in accordance with the custom in the aforementioned city, candles and other offerings are given to the Parish Priest, which are offered during the carrying of the body, or after the carrying has been completed. However, if the funeral service is not performed in the parish of the deceased, but in any other church, even if it is a regular church, then the Parish Priest is entitled to only one-fourth of the candles, which are burned either on the altar or around the coffin.

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With these facts established, the original questions were to be answered.

[*Latin ed. p. 503*]

FERRARIEN. 803, Dubia I. Does the Guardian of the Convent of Observant Minor Friars have the right, by virtue of the Holy Spirit, to associate [the body] of the deceased Sabina Mazza with the common cemetery in this case? And, if the answer is negative: II. To what extent, and for what benefits, is the Parish Priest of the Cathedral Church obligated to make restitution in this case?

RESOLUTION. The Holy Congregation of Bishops and Regular Canons, having considered the aforementioned questions under the date of March 10, 1893, decided to respond as follows:

Regarding the negative aspect and the obligation to make restitution, all benefits received through the association with the cemetery must be returned to the Parish Priest by the Church; and regarding the fourth candle of the funeral rite performed in the Church, the Regular [Friar] must perform it. Regarding the affirmative aspect, restitution is required for all benefits.

FROM WHICH THESE CONCLUSIONS ARE DERIVED:

I. Synodal laws and local customs are to be held in high regard in matters concerning funerals, and they possess the force of law, provided they have been duly introduced, prescribed, and approved.

II. The Parish Priest is obligated to bury the bodies of the deceased who received the sacraments from him, and the Parish Priest has a legally founded intention regarding the burial.

III. The territorial jurisdiction of the Parish Priests is revived when the bodies leave exempt churches, for the easy return of each thing to its proper origin.

IV. Religious [Friars] have the right, without the intervention of the Parish Priest, to arrange a procession and to associate the body of a deceased Religious, with a stole and the customary cross, with the cemetery, provided that the body is carried without solemn pomp, and directly by the family of the Religious from their own convent.

V. And from the funeral of a deceased Religious, it can be inferred that the same must be affirmed regarding the funeral of a secular [layperson] who has chosen, among the Religious, or among the Gentiles, a burial place.

VI. Therefore, all benefits that were received through the association with the cemetery, as they were received contrary to the law and improperly, must be returned to the deceased Parish Priest, along with the fourth part of the candle of the funeral rite performed in the Regular [Friar's]

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church.

[*Latin ed. p. 504*]

FROM THE HOLY CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION: A Question concerning marriages contracted before an acatholic minister. May 18, 1892. The question was presented to the Holy See: What is to be done concerning those Catholics, who, according to the ancient custom of our dioceses (that is, those existing in Prussia), having contracted marriage before an acatholic minister, are to be admitted to the most holy Sacraments by confessors without special faculties? The Holy Congregation of the Roman and Universal Inquisition responded on May 18, 1892: Those who enter into marriage before a heretical minister incur censure; however, Ordinaries, by virtue of their faculties, can absolve them, and can also delegate others to absolve them. Those who, up to now, have not received absolution from censures for such a fault, are not to be disturbed, according to what has been explained. FROM THE HOLY CONGREGATION OF INDULGENCES OF THE CITY AND THE WHOLE WORLD: Decrees concerning the pious Exercise of Fifteen Sabbaths in honor of the Blessed Virgin Mary under the title of the Most Holy Rosary. I. For many years, members of confraternities under the title of the Most Holy Rosary have been accustomed to offer a singular act of piety to the Blessed Virgin Mary, dedicating fifteen Sabbaths without interruption, or immediately before the feast of the same Blessed Virgin Mary under the aforementioned title, or even at any time within the year. This pious practice, already endowed with sacred Indulgences by the Supreme Pontiffs for the aforementioned members, consists in the fact that, on each of the aforementioned Sabbaths, the members should approach the Sacraments of Confession and the Most Holy Eucharist, and also perform some act of devotion in honor of the fifteen mysteries which are recited in the Marian prayers of the Most Holy Rosary.

[*Latin ed. p. 505*]

From the Sacred Congregation for Indulgences, 505. Now, since the practice of performing this devotion to the Blessed Virgin Mary is very widespread among the faithful, prayers were presented to His Holiness, Pope Leo XIII, that he might deign to generously open the heavenly treasures of indulgences to the faithful who devoutly perform this pious exercise. Furthermore, His Holiness, to whom it is supremely dear that the cult and piety towards the Virgin Mary under the title of the Most Holy Rosary be fostered, most graciously accepted the aforementioned prayers during an audience held on September 21, 1889, through the undersigned Secretary of the Sacred Congregation for Indulgences and Sacred Relics, and, having revoked any other indulgence that might perhaps have been attached to this same pious exercise for all the faithful, generously granted

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a plenary indulgence, applicable also to the souls in Purgatory, once only, to all the faithful of both sexes, who, on any fifteen consecutive Saturdays, or immediately preceding the feast of the Blessed Virgin Mary under the title of the Most Holy Rosary, or at any other time within the year, having truly repented, confessed, and received Holy Communion, have devoutly recited at least three parts of the Most Holy Rosary, or have otherwise piously contemplated the mysteries of the same Most Holy Rosary, choosing, at their own discretion, one of the aforementioned Saturdays. To the remaining fourteen Saturdays, an indulgence of seven years and seven quarantines was generously granted, applicable also to the souls detained in Purgatory. This present decree is valid forever, without any brief being required, in contradiction to anything to the contrary. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on September 21, 1889. For the Most Eminent and Reverend Lord Cardinal Cristofori, Prefect. By order of: Cardinal Serafini, Prefect. L. S. Alexander, Bishop of Oens, Secretary. II. From the decree of the Sacred Congregation for Indulgences and Sacred Relics, published on September 21, 1889, His Holiness Pope Leo XIII generously enriched with indulgences the singular act of piety which the faithful offer to the Blessed Virgin Mary under the title of the Most Holy Rosary, on fifteen Saturdays.

[*Latin ed. p. 506*]

506 CONCERNING A GRANT OF INDULGENCES: Interruptions or difficulties arising immediately before the feast of the Most Blessed Virgin Mary, under the aforementioned invocation, or at any time of the year. In truth, experience has shown that for many among the faithful, especially those who belong to the working class, it is very difficult to perform this pious exercise in honor of the Mother of God on weekdays, and therefore, they are entirely deprived of the indulgences attached to it. These matters were presented to the Most Holy Lord, so that whenever the Christian faithful are hindered by a legitimate impediment from performing this aforementioned pious exercise on the Sabbath, they might be granted, without any loss of indulgences, to fulfill it on Sunday. These requests, presented in an audience held on September 17, 1892, by the undersigned Secretary of the aforementioned Sacred Congregation for Indulgences and Sacred Relics, were most graciously received by the Most Holy Father, who deigned to grant them, with all other conditions prescribed in the aforementioned Decree remaining in force for obtaining the indulgences attached to this pious exercise. This decree is valid forever, without any brief being required. Contrary provisions notwithstanding. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on September 17, 1892. FR. A. CARD. SEPIACCI, Prefect. L. & S. f. ALEX. ARCHIEP. NICOP., Secretary. DECREE Concerning the Third Secular Order of St. Francis of Assisi. The following questions, concerning the

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Secular Third Order of St. Francis of Assisi and other Orders, which are to be resolved, have been presented to this Sacred Congregation for Indulgences and Sacred Relics: I. Is the Secular Third Order of St. Francis bound by that law established by Pope Clement VIII in the Constitution "Quaeritur," dated December 7, 1604, which stipulates that only one confraternity and congregation of the same name and institution may be established in each city and town? II. Is the consent of the local Ordinary necessarily required to establish a new congregation of the Third Order, whether in the churches of Regular or Secular clergy? III. Can the local Bishop visit congregations of the Tertiaries, even in the churches of the Regular clergy?

[*Latin ed. p. 507*]

I. Whether those religious, who have already made their vows in their own Institute, approved either by the Apostolic See or by the local Ordinary, and who, before the decree issued in Verona on July 16, 1886, were found to belong to the Third Order of St. Francis, continue to belong to the same Third Order after said decree, and whether they enjoy its graces and privileges?

II. Whether secular members of the Franciscan Third Order who enter a religious institute, even before making their religious profession, are obliged to relinquish the habit of the Third Order, and whether, by doing so, they no longer enjoy the same graces and privileges?

III. Whether the aforementioned decree of Verona has the force of law also for members of the Third Order of other institutes, such as the Order of St. Dominic, the Most Holy Trinity, etc.?

IV. Can the faithful, who belong to one Congregation of the Third Order, transfer to another equally established in the same or another place, without losing their Indulgences and Privileges?

V. Can a Franciscan Third Order member transfer to another Third Order of a different rule, e.g., to that of St. Dominic, and vice versa?

VI. Can the faithful, who have been admitted among the members of one Third Order, also be admitted among the members of another Third Order, such as that of St. Dominic, or the Most Holy Trinity, etc., so that a single Christian can be simultaneously a Franciscan Third Order member, a member of the Third Order of St. Dominic, a member of the Third Order of the Most Holy Trinity, a member of the Carmelite Order, and so on?

VII. Whether it is advisable to extend to all who have taken the name of the secular Third Order all the privileges, graces, and Indulgences directly and specifically granted by the Supreme Pontiffs to the first and second Orders of St. Francis?

VIII. Whether it is advisable to grant the Indulgence known as the "Indulgence of the Porziuncola," which all the faithful can gain as often as they

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visit the church in which a Congregation of the secular Third Order of St. Francis is legitimately established, on the feast of August 2nd?

IX. Whether it is advisable to grant to the secular members of the Third Order of St. Francis the opportunity to gain both the Indulgences granted to all the faithful who visit Franciscan churches, as well as those which are proper to the secular Third Order, on the condition that they visit the parish church in all those places where there is neither a church of the first, second, or third regular Order of Francis, nor a public oratory of the secular Third Order, nor another...

[*Latin ed. p. 508*]

XIII. Whether those lay tertiaries of Saint Francis who reside in places where there is no canonically established congregation of their order, may receive the papal blessing, granted to them twice a year by any priest, because they are either unable to access, or it is at least difficult to access, the place where these blessings are imparted by priests duly authorized.

XIV. Whether it would be beneficial to grant to these aforementioned lay tertiaries of Saint Francis, in place of receiving the blessing in the name of the Supreme Pontiff twice a year, two other absolutions or blessings, together with a plenary indulgence.

XV. According to the Constitution "Misericors Dei Filius," the lay tertiaries of Saint Francis enjoy the Indulgences of the Stations of the City. Indeed, according to the work entitled "Raccolta di Orazioni e pie opere ecc.," in order to acquire the station indulgences, in addition to the usual conditions of sincere contrition, confession, and Communion, "according to the Indulgence to be gained," it suffices to visit the church where the station is, or is presumed to be. The question is whether this also applies to the indulgences of the Stations, which are granted to the tertiaries in the aforementioned Constitution, so that confession and Communion need only be performed by the tertiaries in the case where a plenary indulgence is granted, and not when a partial indulgence is granted?

XVI. Whether, except for the lay tertiaries of Saint Francis and the Servants of the Blessed Virgin Mary, for whom provision has been made by the Constitution "Misericors Dei Filius" and the Rescript of December 15, 1883, respectively, lay tertiaries of other orders enjoy the communication of indulgences, either with the respective order to which they belong, or with other tertiaries and their orders?

XVII. Whether it is a safe opinion that teaches: that those for whom indulgences have been granted through communication, continue to enjoy them, even after the Pontifical revocation of those indulgences for the order granting them, unless the revocation is expressly directed also towards them?

XVIII. Whether lay tertiaries of any order enjoy only those indulgences

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which have been directly granted to them, or equally those which have been granted to others, provided that they have not been revoked?

[*Latin ed. p. 509*]

From the Sacred Congregation for Indulgences, 509. And the Eminent and Reverend Fathers, in the general assemblies held at the Vatican, decreed on the 10th of January, 1893. To Question I, Negative. To Question II, Affirmative. To Question III, Negative in those matters pertaining to discipline and internal direction; in the rest, Affirmative. To Question IV, Negative. To Question V, Negative before profession. To Question VI, Affirmative. To Question VII, Affirmative for a reasonable cause. To Question VIII, Generally Negative. To Question IX, Negative. To Question X, Negative. To Question XI, Negative. To Question XII, To petition the Most Holy [Father] for grace. To Question XIII, Negative. To Question XIV, To petition the Most Holy [Father] for grace. To Question XV, Affirmative. To Question XVI, Negative, unless a special Indult is established. To Question XVII, Negative, indeed, false. To Question XVIII, Affirmative. And after a report on all these matters was made to the Most Holy Lord, our Pope Leo XIII, in an audience held on the 31st of January, 1893, by myself, the undersigned Cardinal, Prefect of the Sacred Congregation, His Holiness approved and confirmed the resolutions of the Eminent Fathers, and graciously granted the requested favors perpetually. Given at Rome, from the Secretariat of the same Sacred Congregation, on the 31st of January, 1893. FR. A. CARD. SEPIACCI, Prefect. L. * S. ALEXANDER, Archbishop of NICOPOLITANUS, Secretary. LAUDEN. Decree. The Bishop of Laudensis proposed the following questions to be answered by this Sacred Congregation, which is entrusted with Indulgences and Sacred Relics, concerning the law of distance in establishing and aggregating Confraternities.

[*Latin ed. p. 510*]

510 FROM S. G. ON INDULGENCES, I. Does the Constitution of Clement VIII still hold, by which it is established that Archiconfraternities and primary Congregations in each city, town, or place may only add to and incorporate one Fraternity and Congregation? II. Is there any law prohibiting the canonical erection and incorporation into an Archiconfraternity of more than one Fraternity of the same name, even if in different places, unless a certain distance separates them? III. Does the law concerning the incorporation of only one Fraternity in each city, etc., into an Archiconfraternity, and concerning the maintenance of a certain distance between such Fraternities, also apply to any Fraternity of the Most Holy Sacrament which wishes to be incorporated into an Archiconfraternity established in the City at Santa Maria sopra Minerva? The reason that can be given for a negative answer is: that in many places, Fraternities of the Most Holy Sacrament have been established

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in individual and neighboring parishes, and enjoy the privileges and indulgences of the Archiconfraternity without any incorporation, but by virtue of the mere decree of canonical erection. IV. Finally, is the pontifical concession which states that Sodalities of the Daughters of Mary can be established everywhere and incorporated into the primary Sodality existing in the Basilica of Saint Agnes outside the walls of the City, to be extended to other Fraternities and Congregations as well, especially considering that in these our times, it is most desirable that the establishment of Fraternities and Congregations be multiplied everywhere, which the Apostolic See has repeatedly recommended? And the Eminent Fathers, assembled in the Councils at the Vatican, answered the questions proposed on January 10, 1893, as follows: To I. Affirmative, unless others have been canonically erected with a special indult from the Holy See. To II. According to the practice existing in the erection of Fraternities and in their incorporation, a distance of one league must be observed. To III. "Let the Decrees of April 23, 1676, and April 22, 1752, be consulted." To IV. Negative, and it should be consulted with the Most Holy [See] so that it may deign to extend the aforementioned concession for the erection of Fraternities in distinct places, that is, in distinct dioceses or communities. In an audience held on January 31, 1893, by me, the undersigned, Prefect of the Sacred Congregation, the following was done concerning these matters.

[*Latin ed. p. 511*]

FROM THE HOLY CONGREGATION FOR INDULGENCES, 511, concerning all matters, His Holiness confirmed the responses of the esteemed Fathers and, concerning the requested grace, which was raised in doubt IV, benignly granted it. Given in Rome, from the Secretariat of the aforementioned Holy Congregation, on the 31st of January, 1893. FATHER ALOISIUS CARDINAL SEPIACCI, Prefect. ALEXANDER, Archbishop of NICOPOLITAN, Secretary.

FROM THE HOLY CONGREGATION FOR RITES OF NEAPLES. Decree concerning the beatification and canonization of the venerable servant of God, Father Modestinus of Jesus and Mary, a priest, professed member of the Order of Discalced Friars Minor of stricter observance of Saint Peter of Alcantara, of the Neapolitan province. Presented by Reverend Father Julius of Jesus and Mary, a professed priest, and General Postulator for the causes of beatification and canonization of the servants of God, of the Order of Discalced Friars Minor of stricter observance of Saint Peter of Alcantara.

When, by me, the undersigned Cardinal, Prefect of the Holy Congregation for Rites, in place and instead of the Most Eminent and Reverend Lord Cardinal Thomas Mary Zigliara, Promoter of the Cause or Relator, in the ordinary meetings of the aforementioned Holy Congregation, convened at the Vatican on the date indicated below, the following doubt was pro-

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posed, namely: "Whether the judgment of the Ordinary judge concerning the aforementioned cult of the Venerable Servant of God, or concerning certain Decrees of the blessed Pope Urban VIII, should be confirmed in this case and for the purpose in question?"

The Most Eminent and Reverend Fathers, entrusted with safeguarding the rites, having duly considered all matters, and having heard the Reverend Father Doctor Augustine Caprara, Promoter of the Sacred Congregation, judged it fitting to respond: "Affirmatively, that is, the judgment should be confirmed." Dated January 14, 1893.

Subsequently, I, the undersigned Cardinal, reported these matters to the Most Holy Lord Pope Leo XIII. His Holiness approved and confirmed the response of the aforementioned Holy Congregation on February 4th of the same year.

CARDINAL ALOISI-MASELLA, Prefect.

L. VINCENTIUS NUSSI, Secretary of the Sacred Congregation.

[*Latin ed. p. 512*]

From the HOLY CONGREGATION OF THE INDEX, on the Feast of Saint Gregory, the 10th of March, 1893. The Most Holy and Reverend Congregation of Eminent Cardinals of the Holy Roman Church, by order of the Most Holy Lord our Pope Leo XIII and the Holy Apostolic See, concerning the Index of books of pernicious doctrine, and their prohibition, suppression, expurgation, and permission throughout the Christian Republic, has commanded and commands that the following work be placed on the Index of Prohibited Books:

"G. Maggio. — Pio IX accused by the enemies of Rosmini. — Piacenza, Typographia F. Solari, of Gregory Tononi, 1892, also under this other title: C. Maggio. — Leo XIII can agree with Pio IX in the Rosminian affair. — To the venerable memory of Anthony Stoppani. — Lecco, Typographia del Commercio dei Fili. Grassi, Via Cavour N. 15, 1893."

Therefore, no one, of whatever rank and condition, should dare to publish, or to read or retain, the aforementioned work, wherever and in whatever language, but rather they are bound to deliver it to the Ordinary of the place, or to the Inquisitors of heretical perversity, under the penalties indicated in the Index of Prohibited Books.

These matters, which the Most Holy Lord our Pope Leo XIII has received from me, the undersigned S.I.C. from the Secret Archives, have been approved by His Holiness, and He has commanded that they be promulgated. In witness whereof, etc. Given in Rome, on the 10th of May, 1893.

CAMILLUS Card. MAZZELLA, Prefect of the Place.

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FR. HYACINTHUS FRATI, O.P., from the Secret Archives.

[*Latin ed. p. 513*]

513 FROM THE HOLY CONGREGATION FOR THE PROPAGATION OF THE FAITH: Instruction of the Holy Congregation for the Propagation of the Faith to the Bishops of Eastern India, concerning the conversion of the people. Since, in recent years, the Supreme Pontiff, Leo XIII, having turned over the pastoral care of these regions of Eastern India to his own ecclesiastical authority, established a Hierarchy there, He did not intend this solely for the adornment and dignity of the Christian cause, but rather, above all, that, strengthened by a new foundation and increased with new forces, it might flourish with more fruitful cultivation and receive greater growth. Indeed, the prelates of these regions have clearly perceived this, who, especially in Synods opportunely convened in India after that time, have enacted certain things concerning the conversion of the people. However, that the alacrity of souls may correspond to the opportunity offered by the times and things, according to the most benign plan of God, and that a happy outcome may finally result, this Holy Congregation must diligently attend to this, to which the care and office of propagating the faith throughout the world has been entrusted. And indeed, this vigilance is strongly urged by the gravity of the matter itself, and especially by the condition of the Catholic Missions in India. Many there are diligently established and perfected, so that in those places where the faith has taken root through European colonists, spiritual assistance may be provided to the faithful. Among these, several stations should be especially strengthened, which are sufficiently provided with frequent priestly ministry, sacred buildings, schools, and other institutions suitable for fostering the faith. Moreover, not a few Christian societies have arisen from among the converted indigenous people, and these are noteworthy, in which almost all the efforts of the missionaries are now devoted, those whom the care of European stations has released. These also indigenous Christians, *Immensa Aeterna*, Tom. XXV, fasc. OGXCVII, 33.

[*Latin ed. p. 514*]

INSTRUCTION: These Superiors diligently exercise solicitude for the welfare of those entrusted to their care, and they testify to it; and therefore, they are rightly held in high esteem by this Holy Council. But greater matters now demand attention; namely, the expansion of the Christian name among the nations, and the bringing of the light of faith to an innumerable multitude of people still held captive in the darkness of superstition. Indeed, in some places, this is already being accomplished with diligence and success, and many groups of unbelievers are converted to the Christian faith and piety, overcoming great difficulties. But what is presently the praise of some, it must now also be the labor and honor of others. It is

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evident that in certain provinces of India, the Christian cause has made little progress from the beginning of this century, so that the vast majority of Indians, a multitude of people, have not yet received any help from the heralds of the Gospel, but are almost all held captive by superstition. They are unable to invoke that name which is given to men for salvation. For how can they invoke Him in whom they have not believed? Or how can they believe in Him of whom they have not heard? And how can they hear without a preacher? (Romans 10:14). Furthermore, this ruin of so many perishing souls has always caused great concern to this Holy Congregation; and it has never failed to urge the Directors of Missions, both individually and collectively, to diligently strive to bring the nations to the faith. But more obstacles have arisen to prevent this from succeeding according to its intention. However, these obstacles must finally be overcome, so that countless peoples may be delivered from the long-standing servitude of the enemy of hell and brought into the light and freedom of the Gospel. Therefore, this Holy Congregation has decided, through these letters, to address the individual superiors of Eastern India; and it proposes to them certain specific measures, which they are obligated to undertake in the exercise of their office to promote the conversion of the nations.

[*Latin ed. p. 515*]

INSTRUCTION 515 I. And first, in each Diocese, it must be ensured that several missions are established, which pursue the conversion of the unbelievers as their own and particular objective. In those Dioceses where such missions already exist, care must be taken to multiply them as soon as possible, and gradually to extend them throughout the entire territory of the Diocese. Bishops should select the locations that appear most suitable for this purpose; in their selection, they will take the greatest care to ensure that they are distant from European settlements. Since it has been proven by experience that such missions are more easily established and thrive in the countryside, in small towns, Bishops should devote the efforts of their missionaries primarily to these areas, from which greater fruits seem to be obtainable. Those apostolic men who will be appointed to lead these missions must be freed from other duties and concerns, so that they may devote themselves entirely to evangelizing the unbelievers. For this purpose, the Holy Congregation commands that the decrees most wisely enacted in the Synods of Columbus, Bangalore, and Allahabad in India, held in the year 1887, be observed in each Diocese, namely: that each Bishop ensure that each missionary diligently learns the language of the region in which he is working, and that at least two of them be appointed exclusively to the evangelization of pagans (Conc. Columben. n. III, § 3; Conc. Bangaloren. n. III, § 3; Conc. Allahabaden. n. III, § 3). The Holy Congregation commands that in each Diocese, some missionaries be designated for the purpose of converting those of different ethnic groups, even if it should appear to be

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less convenient, following the example of the Good Shepherd, who does not hesitate to leave ninety-nine sheep in the desert in order to seek out and bring back the one that has strayed. The Bishops will inform this Holy Congregation of the names of the missionaries whom they have designated for this work, six months after the receipt of these instructions; and they will always observe this practice, whenever they are required to report on the state of their Diocese at fixed times. But since the conversion of the unbelievers is a work that requires much labor...

[*Latin ed. p. 516*]

516 The instruction, which demands much prudence and patience, should be entrusted to those who, by their apostolic virtues and experience, seem to be outstanding above others. These individuals should strive to win over the hearts of the people through acts of charity, and at the same time, they should demonstrate by their example and teaching that gravity, knowledge, and holiness are essential for the virtue and authority of the doctrine transmitted by them. Furthermore, with regard to the preaching of the Gospel itself, they should bear in mind that this important part of the apostolate is to be fulfilled not only publicly and in churches, but especially in homes and private families (1); and they should also keep before them that, in preaching, the simplicity of the Gospel should be used, rather than the subtlety of language; that pagans should be received honorably according to their rank and treated kindly; that allowance should be made for their weaknesses; and that their doubts should be answered amicably, clearly, and without ostentation (2). Moreover, what is most effective in moving different peoples, according to their character, and in promoting various activities will be shown by experience, since often great things depend on small beginnings. Therefore, let not the spirit of an apostle be discouraged, even if, at the beginning, their efforts seem to produce no results or results of little importance. It should not be abandoned from the outset, but rather, it should be pursued with greater zeal; other ways to achieve success should be tried, and nothing should be left untried, until the grace of God, which alone gives growth to the seed, responds to human efforts and waters it. In almost every case, it is so that, with perseverance and careful diligence, difficulties are eventually overcome, and a happy outcome is achieved.

II. Although the fruits and revenues of missions are often very meager in relation to the needs, let superiors be careful not to devote them entirely to use and benefit alone (1).

(1) Instruction of the Sacred Congregation for the Propagation of the Faith to the Apostolic Vicars of Sinarum, in the year 1883.

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(2) Ibid.

[*Latin ed. p. 517*]

INSTRUCTION 517 to the faithful; but whatever the annual sum of revenues may be, let it be distributed to the various needs of its ministry in such a way that a portion is always allocated to promoting the conversion of non-believers. To accomplish this more easily, they should abstain as much as possible from excessive expenses on buildings and their upkeep, avoiding anything that detracts from essential needs, and adorning the Church of Christ not with any outward splendor, but with the faith and Christian virtues of the people entrusted to them. For divine providence has ordained that we must also, with human effort and in accordance with the laws of nature, strive and work towards higher things; therefore, let the Bishops also remember that their own duty and office require them to care for the temporal goods of the missions. Indeed, most of the dioceses now in India, having barely enough of their own revenues, are maintained only by corrections and external subsidies; and this is neither sufficient nor certain. Therefore, since it is also necessary to foresee future needs of the missions, the Sacred Congregation has deemed it necessary to remind these Bishops of the need to provide so that the dioceses in India may one day have their own certain income. It is therefore necessary to ensure that they are endowed with a stable patrimony, as has been successfully done in some places in this very region of India, following the example of past times. Moreover, since so many urgent present needs prevent a large sum of money from being contributed and set aside for this work, this Sacred Congregation only asks the Bishops to endeavor to prudently invest certain sums, however small, repeatedly and opportunely, for future growth of the missions and uncertain times. It will be for each Bishop to inquire in what way this investment of money is most expedient for his own diocese. However, this Sacred Congregation believes that, above all, the purchase of land and rural properties should be considered, which can then be used to...

[*Latin ed. p. 518*]

518. INSTRUCTION: For the benefit of the missions, [resources] should be cultivated, or [personnel] should be assigned to the indigenous Christians for their instruction. Finally, in this matter, the Bishops should ensure that what the Holy Congregation recommended to the Apostolic Vicars of India through letters dated September 8, 1869, is observed, with these words: "In order that the administration of all ecclesiastical revenues may proceed in an orderly manner, a Council must be established in each Vicariate for this administration... This Council should consist of several prudent Missionaries appointed by the Apostolic Vicar, with whom the Vicar himself will deliberate on matters of greater importance, and he will listen to

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their advice, and he will never act against the advice of the majority of the more experienced Missionaries, especially when it comes to the founding of new churches or houses, colleges, or schools."

III. As for the sacred ministers, which are the strength and foundation of the missions, the Bishops should take care to have a sufficient number of them from Europe, according to the size of each diocese and the number of inhabitants. This should also be a primary concern for the Directors of institutions and of sacred sodalities, to whom the care of the spiritual welfare of a diocese has been entrusted. Furthermore, the Directors of such institutions must be mindful of the grave obligation that rests upon them to ensure that the missions, which they have received from the Holy Congregation to cultivate, do not suffer from a lack of personnel. Therefore, they are primarily obligated to provide the necessary number of missionaries, sufficient for the needs of the mission; then also, they must diligently seek out other human resources and assets that the mission requires. If they find that the burden they have undertaken is beyond their capabilities, they must inform the Holy Congregation, so that it may determine what is most fitting for the good of the Christian cause.

As for the qualities with which those who are to carry out the apostolic mission among foreign peoples must be endowed, the Holy Congregation declared the following to the first Apostolic Vicars, writing from the Seminary of Paris in 1659: "Therefore, above all, it must be ensured that they seek with great diligence..."

[*Latin ed. p. 519*]

INSTRUCTION 519: And men are distinguished by their age and bodily health, being fit for the labors to be endured, and, what is more important, by not inconsiderable charity and prudence; these virtues, not by the judgment and conjecture of others, but by long experience and use, having been proven in their dealings with other women in Lodi; who are capable of keeping secrets and are steadfast custodians; who, with gravity of manner, gentleness, meekness, humility, patience, and by every example of virtue, contribute to the Christian faith which they profess; who, finally, formed according to the norm of evangelical charity, adapting themselves to others in their talents and morals, are not burdensome to those with whom they have lived, nor are they ungrateful to outsiders, but, as with the Apostle, are all things to all men.

IV. But let the sacred prelates understand this: that, with the help of only a few European missionaries, it is by no means possible to advance the Christian cause among the nations as it ought. For when the number of indigenous people incorporated into Christ is such that all the missionaries, who cannot be so numerous as to be drawn from Europe, must devote their efforts to their instruction, scarcely any will be left to assist the remaining unbelievers; and almost all progress of the mission will cease and decline.

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Therefore, bishops will never consider that they have sufficiently provided for their own diocese, unless they have devoted constant and most skillful efforts to the instruction of indigenous clergy. This matter is of such importance that it is held by this Holy Congregation to be of the greatest value, perhaps more than anything else. From the countless and most serious decrees and documents issued by the Roman Pontiffs, either by themselves or through this Holy Council, which testify to the remarkable solicitude of the Holy See in this matter, it is sufficient here to mention only what the Sacred Congregation warned the Apostolic Vicars of Tunquin and Cochinchina in the year 1659: that the most important reason for sending bishops to those regions was to take all possible measures and means to instruct that youth so that they might be made capable of the priesthood, and to ordain them, and to gather them in their places throughout those vast regions, so that they might direct the Christian cause there with the utmost diligence.

[*Latin ed. p. 520*]

520 INSTRUCTION. Those who are to care for these matters should strive to bring about as many and as suitable men as possible to the sacred orders, and they should establish and, in due time, promote them. And this particular care, applied to the formation of the indigenous clergy in the Indo-Chinese regions, deserves to be considered among the reasons why those missions have so bravely withstood such serious persecutions, and why, fertilized by the blood of martyrs, they have yielded abundant fruits above all others. Now, with repeated exhortations, the Holy Congregation adds this further encouragement; and to the bishops of that region, it again commands that they devote themselves, even more than they have done so far, to forming a greater number of indigenous clergy, instructed in ecclesiastical virtues; and they should consider that the hope for the Church, newly established in India, is undoubtedly placed primarily in them. Furthermore, the number of these indigenous clergy should increase in proportion to the number of the faithful, so that the abundance of pastors may suffice for those who come to the flock of Christ, and so that apostolic men, to whom this has been entrusted, may be able to conveniently work with new laborers in promoting the faith among the pagans. With this arrangement increased, the clergy will also receive this benefit: that, as the mission centers and subsidiary stations are gradually multiplied, it will be easier for the faithful to enjoy the ministry of priests, who now, often because of the distance of places and the difficulty of travel, are deprived of spiritual nourishment for longer than is proper, and with which, unless it is frequently renewed, piety weakens. Therefore, let the bishops, under the auspices of this Holy Congregation, enter without hesitation into this path, which is clearly a way to promote the faith widely, and let them follow it with good hope, for it will surely be successful. For it is not infrequent among the Indians that there are those who are willing

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to dedicate themselves to the military service of the Church, nor is it lacking in those who have been properly instructed for the sacred ministry. Moreover, since Christ founded His Church so that it might encompass all nations, there is no doubt that...

[*Latin ed. p. 521*]

INSTRUCTION 021: Concerning how the most excellent gifts of grace may flourish among all peoples, by the power of the Spirit, who strengthens those weakened by nature, so that they may rise up to undertake great things. It is especially important that those things which God has permitted to human industry be diligently pursued. Therefore, from the Catholic schools for boys, those boys should be selected who appear to excel in intellect, piety, and morals, and who show signs of an ecclesiastical vocation. The seeds of such graces are nurtured and developed through more careful education in a suitable Diocesan College, from which, later, those who are deemed worthy will be admitted to the Seminary, so that their ecclesiastical formation may be perfected in the manner and according to the regulations prescribed by the Church, and in the way that experience has shown to be most suitable for the good of souls; thus, that indigenous clergy, being instructed in all knowledge and piety, may receive the same level of education as foreign priests, and may be made fit to perform all ecclesiastical duties. It is fitting to recall here the Synods of Columbus, Bangalore, and Allahabad, of which mention was made above, at which all the superiors of the Missions of India were present, and at which, among other things, it was decreed that each Diocese should have its own Seminary for the training of indigenous clergy. And if any suffragan See is unable, due to a lack of resources, to establish a Seminary, the Bishop shall be obliged to send indigenous students at his own expense to the Metropolitan Seminary (nn. III, §§ 2). V. To the indigenous priests, for whom there is such a great need, the closest benefit comes from the selection of catechists from among the indigenous laypeople. The future benefit that such people will bring to the Missions is demonstrated by the experience of many places and times. But, above all, they are assisted by the work of European missionaries, who are dedicated to the conversion of the pagans. For indigenous people have easier access to their own people, and they can lead the way to the priest, who, having already prepared their hearts and minds, will more easily lead them to the truth of the Gospel.

[*Latin ed. p. 522*]

522 Catechists of this kind must, without exception, possess proven morals, and be endowed with a suitable knowledge of the mysteries of the Christian faith; and they must possess such gravity and humanity that they may be able to win over hearts, and move them both with doctrine and with example. To bring about such individuals, the Bishops must

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diligently apply themselves, carefully instructing them from their youth. Moreover, this plan would be highly approved by the Holy See, having already been put into practice with great benefit in some places, namely, that just as clerics are instructed in the Seminary, so too catechists, suitably chosen for this purpose, should be instructed in a College. VI. Among these things which have been briefly mentioned thus far, concerning the duties of these Bishops for the advancement of the Christian cause, it must not be passed over in silence, namely, that which pertains to the instruction of youth. How important it is for the proper instruction of young people to firmly implant the Christian faith and discipline in the minds and hearts of the people, it is unnecessary to declare here at length. For just as the youthful age can be molded and shaped in every way, so the principles of life that are adopted at that time will hardly be removed by the vicissitudes of age. Therefore, especially in places where the doctrine of the Gospel has been newly sown, schools will provide the firmest support for the nascent faith, through which, with the Christian discipline maturely instilled in the young faithful, a stable foundation is established, which will gradually be increased by the addition of new Christians. Furthermore, from these well-instructed schools, there will be many other benefits, namely, that a considerable authority will be gained for the Catholic name, as these people, and indeed the magistrates of the city, are accustomed to judge, and indeed the dignity of each religion, from such institutions. But perhaps this should especially impress these prelates, namely, that in this way the efforts of the heretics in India can be most effectively thwarted, who, under the pretext of the name of Christ, draw away not a few from the true Church through injustice. This, along with other benefits with which they are abundantly endowed, is especially achieved through schools; and also, through the alluring appearance of...

[*Latin ed. p. 523*]

INSTRUCTION 523: The youth, imbued with false doctrines and infected with the contagion of heresies, are being misled. And what is most to be lamented, there are even Catholics who entrust their children to such teachers, due to the lack of Catholic schools. It is not hidden that this Holy Council has already accomplished much in this regard, in order to provide for the education of the youth; but while due praise is given for the efforts made in this work, encouragement is also given to the Bishops to diligently pursue this undertaking. Therefore, they should strive to establish a school in each mission, where Catholic children should gather to learn the rudiments of letters and of the Christian faith. In larger and more prominent cities within the Diocese, gymnasiums should also be open to the youth, where young people can devote themselves to more advanced studies, those who, according to their talents or the position they hold in society, aspire to such things. And these institutions themselves

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will often be able to provide the necessary resources. Colleges will also be of great benefit, where boys, remaining under the watchful eye of instructors, can be more diligently guided towards piety and learning; and from these, especially, will emerge those who will later, for the good of the work, fill the roles of priests or catechists. Although such institutions should be established in all Dioceses, according to the needs of each region, they are particularly necessary in those where the size and importance of the city, and the greater and more developed civil life, seem to demand it. As for teachers, the Bishops should strive to invite religious men and women from those Societies that are dedicated to the education of youth to their Dioceses. If circumstances require it, they can also add lay assistants, who will be of no small use. VII. Let these sacred prelates, in their Synods, keep before their eyes all these things, which the Holy Congregation considers to be the most suitable means for defending or promoting the faith.

[*Latin ed. p. 524*]

524 INSTRUCTION to the Provincial Superiors about to be convened: and after having imparted these counsels, they should strive to enact decrees which, with certain and stable methods, provide for the execution of the proposed reasons. Let the Directors of the Missions in India bear this in mind: this Holy Congregation does not merely encourage, but commands them to devote themselves to the works which, especially concerning the conversion of the pagans and the institution of native clergy, these letters once again pursue. They obey this mandate of the Holy Congregation, which is confirmed by the open will and authority of the Supreme Pontiff, freely and willingly, as if it were for the growth of Christ Himself, for whom they exercise their ministry; and to them remains a most certain and abundant reward for all their labors, whatever outcome their works may have. But let them also, with God's help, expect this with a completely hopeful spirit. Especially since the great difficulties with which the situation is beset may perhaps be lessened by the opportune circumstances of the times. For in India, all is peaceful, the routes are open, the Christian cause is adorned and strengthened by the support of Bishops, and new institutions are constantly being established; Xanten, gradually becoming less firm, is nourished by the homeland of superstition. Therefore, let those who have undertaken the ministry of the word not fail to testify to the Gospel of the grace of God (i) before the Gentiles; but let them transfer, with a noble effort, the benefits that have been freely offered by the vicissitudes and progress of times, to the eternal glory of Jesus Christ and the salvation of souls. In Rome, from the offices of the Holy Congregation for the Propagation of the Faith, on the 19th of March, in the year 1893.

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(i) Acts XX, 24.

[*Latin ed. p. 525*]

525 FROM THE HOLY CONGREGATION FOR RITES IN MARSEILLES. Decree concerning the beatification and canonization of the Venerable Servant of God, John Baptist Gault, Bishop of Marseilles. Illustrious Nation of Gaul, since embracing the Christian faith, has always produced outstanding men. Among these, John Baptist Gault deserves to be mentioned, who, not only in the Oratory Congregation, to which he gave his name, but also in the See of Marseilles, wonderfully adorned his priestly ministry with the most noble examples of Christian virtues. He was born in Tours on December 29th, in the year 1595, during the reign of Henry IV in Gaul, and surrendered his soul to God in Marseilles on May 23rd, in the year 1643. Not only did the mortal life of this most illustrious Prelate come to an end, but rather, his reputation for holiness grew and spread far and wide to this very day, so that an ordinary investigation concerning this very reputation for holiness, as well as virtues and miracles, was undertaken in the ecclesiastical court of Marseilles. After this was properly completed and presented to the Sacred Congregation for Rites, the Most Holy Pope Leo XIII granted permission that the question of whether the Commission for the introduction of the same Servant of God's cause should be signed could be considered in the assembly of the Ordinary of that Sacred Congregation, without the intervention and vote of the Consultors. Hence, with the Most Eminent and Reverend Cardinal Lucido Maria Parocchi, of this See, presiding over this cause as Relator, and with the Reverend Albert Battandier, Apostolic Protonotary, appointed as Postulator of the cause, and with attentive letters from numerous Most Eminent and Reverend Cardinals of the Holy Roman Church, and also from almost all the Sacred Bishops of Gaul, and other men of great distinction, both ecclesiastically and civilly, the following question was proposed for discussion in the assemblies of the Ordinary of the Sacred Congregation for Rites, convened at the Vatican, namely: "Should the Commission for the introduction of the cause be signed in this case and for the purpose of which we are speaking?" And the Sacred Congregation itself, after mature deliberation, and after hearing the voice and written opinion of the Reverend Father Augustine Caprara, Promoter of the Holy Faith, decided to respond: "Affirmatively, if it pleases the Most Holy [Pope]." On January 14th, 1893. With all of the above, to the Most Holy Pope Leo XIII, through myself, the undersigned Cardinal of the Sacred Congregation for Rites.

[*Latin ed. p. 526*]

526 MARSEILLES. After the Prefect of the Congregation had presented the matter, His Holiness, considering the decree of the Sacred Congregation to be valid, deigned with his own hand to sign the commission for

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the introduction of the cause of the Venerable Servant of God, John Baptist Gault, the aforementioned Bishop of Marseilles, on the 4th of February of that same year.

CARD. ALOISI-MASELLA, S.R.C., Prefect.

L. & S. VINC. Nussi, S.R.C., Secretary.

Synopsis of the life of the Servant of God, John Baptist Gault.

The family Gault, it is said, was ancient and distinguished in public life among the people of Gallus, in the city of Tours. James Gault took to wife Margaret Poitevin, a woman of equally noble lineage, and from their marriage, John Baptist first saw the light of day in Tours on the 29th of December, in the year 1595, when Henry IV reigned in Gallus. On the very day that he was born, he received the sacred baptism in the parish church of Saint Saturnin, and was anointed with the sacred chrism, when he first began to use his reason. His mother, who was exceedingly devoted to piety and fostered feelings of devotion towards the Catholic Religion, strove from his infancy to instill the precepts of religion into the boy's mind, and to lead him to virtue; and nothing gave that pious mother more joy than to teach the little boy the most holy names of Jesus and Mary, which he repeated with childish innocence and sweetness. Among the virtues that shone forth in the boy, his good character and gentle disposition were particularly evident, qualities that followed him throughout his life. Hence, if he suffered anything harsh, either from his family or from his companions in his childish games, he never showed the slightest sign of pain, which won him the love and admiration of all. When he reached the tenth year of his age, he was entrusted to the Fathers of the Society of Jesus for his education in the College of Lyons. But having already learned the rudiments of the Latin language in his father's house, he found it easy to master the study of grammar, and he quickly devoted himself to the cultivation of the humanities. His way of life, which had thus far been a source of admiration to all, and which served as a perfect example to the other students, was so entirely composed of piety and of the rules of a virtuous life, that his teachers asserted that they had never had another student who gave them so much consolation.

[*Latin ed. p. 527*]

MARSEILLE. 527, he would bring about a change. Increasingly inflamed with a desire for perfection, and greatly valuing purity, with the consent of the one who was present at his confession, he made a vow of perpetual chastity, which he declared to have been of great benefit to him amidst the arduous dangers in which he found himself. No less was his compassion for the poor; the thought of the misfortunes of others so estranged his mind from all pleasures, and he was so generous that whatever money came to him for his recreation and enjoyment, he would give to the poor. Nevertheless, he never abandoned his tireless pursuit of studies, but he devoted him-

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self so diligently and ardently to his studies that he spent sleepless nights engaged in scholarly labors to bring them to completion. When our John was preparing himself for the study of Rhetoric, it happened that something occurred which provided a laborious exercise for his patience. His brother, named Eustachius, who had been traveling for a long time to fulfill his father's wishes, who had intended him for business, returned to Lyons, and he begged him to take the place of the teacher for him. He performed the task entrusted to him admirably, and after a few months, Eustachius was deemed worthy to pursue his studies alongside him. Afterwards, they were always companions in their studies, and their mutual fraternal love was praised by all. The pleasant studies of literature, which exercised the minds of the two brothers, and which aroused their care and emulation, were now giving way to the arduous speculations of Philosophy. Therefore, both of them went to the College of Ficchine, which was administered by the Fathers of the Society of Jesus, where they began their philosophical studies, and upon completing their course, John was deemed worthy by the master to undertake the task of teaching. While the two brothers were so intent on their studies with such fervor of spirit, God, whose will governs the paths of men, had set his eyes upon them, and had called them to a religious life. Responding with eager hearts to this divine vocation, they decided to devote themselves entirely to theological studies. At that time, in Paris, the most learned men flourished in the Sorbonne, and the talents of young men from all sides flocked there to learn theology, the two brothers, without hesitation, preferred the Sorbonne to all other universities. Devoted to sacred studies day and night, they gave such splendid proofs of their talents that not only did all their fellow students and others admire them, but even some professors did not hesitate to declare that God had bestowed special gifts upon John.

[*Latin ed. p. 528*]

528. MASSILIEN. He held positions, and there would be a time when he himself would shine forth like a bright lampstand in the Church of God. Nothing was lacking for them in the Sorbonne University, where, shortly after, John also taught the same discipline with great distinction. But the two brothers, eager for truth, hastened to Rome, so that there, in the center of truth, they might perfect their studies. Having overcome all difficulties, even those arising from family matters, they arrived in Rome. Who can imagine, or express, the joy and piety that they felt when, before their very eyes, they beheld so many monuments of the Christian religion, for which religion such fervent love burned within their hearts? Their diligence in studies, their frequent attendance at churches, combined with the utmost humility, were evident to all, and even the eminent Cardinal Barberini, who especially favored John the Baptist with his esteem and favor, noticed it. After eighteen months spent in Rome, during which he had made such

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progress in sacred studies that he publicly defended a theological thesis to the applause of all, he returned to his homeland with his brother, and revealed to his mother, to whom her husband had passed away not long before, that he had decided to join the Oratory, a congregation which, together with Eustachius, he had resolved to found. How great was the joy of this most pious mother at such a decision of her sons, who were her only comfort in her widowhood, is evident from the fact that she immediately and willingly acceded to their wishes, considering it a sacrilege to oppose the will of God, and she wished to lead them to Paris, to Cardinal de Berulle, who had founded the aforementioned congregation. Our John undertook the novitiate with the greatest fervor, at the age of twenty-two, and completed it with equal zeal, strictly observing the precepts of the Catholic law and the constitutions of the monastery. Then, having received all the sacred orders, and after spending ten days in solitude and contemplation, having confessed all that had preceded, he was ordained a priest in the city of Troyes, with such joy, not only his own, but also that of his mother, and he began his priestly duties with such piety that his mother, attending this sacred ceremony, felt in her heart that she beheld her son, already united with God, shining in the splendor of eternal blessedness. Ordained a priest, he devoted all his strength and thoughts to...

[*Latin ed. p. 529*]

MASSILIEN. He directed and ordered fifty-two other individuals to cultivate virtues more intensely, and from that time forward, he appeared so inflamed with charity towards God, that his sole concern was for the glory of God and the salvation of souls; indeed, he declared himself ready to undertake any labors or face any dangers in regions of the infidels, for whom he would not hesitate to shed his blood. With such a disposition of mind, and having set for himself the goal of making daily progress in solid virtue, he diligently strove to restrain all desires, and in order that he might not be overcome by the temptations of the flesh and the lower powers of the soul, he accustomed himself to impose many voluntary penances upon his body, which Cardinal de Beruhe regulated, so that his health might suffer no detriment. These, indeed, were the beginnings of his illustrious sanctity, which would subsequently be admired by all of Gaul and other nations in the Servant of God. Because of the excellent qualities of mind with which he was adorned, weighty duties were entrusted to him in the Congregation of the Oratory, which he always exercised with remarkable wisdom and prudence. To these were added sacred missions, to which he felt himself strongly impelled for the eternal salvation of his neighbors, but he did not undertake them except at the command of his superiors, whom he obeyed with the utmost deference. He considered nothing so difficult, nor so frightening, as to deter him from the duties he had undertaken, nor anything that could delay his ardent zeal. Were famines, thirsts, and the dis-

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comforts of travel to be endured? He overcame them bravely. Were the injuries of heretics to be suffered? He bore them with equanimity. Wherever he was sent to preach the Gospel, he went eagerly, offering no excuse, no complaint, even though he suffered from a weak constitution. He diligently devoted himself to rousing piety, and to bringing those who had strayed back to the path of virtue, through constant sermons and exhortations, and he transferred this to the most important part of his endeavors, those who were in greater need of spiritual assistance. In this regard, many acts of charity were accomplished, with God's help. Indeed, after residing in the city of Caen, where, at the request of the Bishop, he accepted the office of Doctor of Sacred Theology, he was sent to Matritum, where, in the house of the Congregation, he spent four years, displaying most excellent examples of charity in the hospital of the French, in which he assisted the poor and the sick with all his strength. Furthermore, another work, as recounted in the *Acta*, Vol. XXV, p. 34,

[*Latin ed. p. 530*]

830. MARSEILLE. Indeed, and with great difficulty, the work was entrusted to the industry and labors of the Servant of God, who, at the command of his superiors, requested a house for the Oratory. While he was zealously engaged in fulfilling this task, so many and such grave difficulties and obstacles were raised against him that it seemed as if he would be forced to abandon the project; but his constancy and fortitude of spirit ultimately prevailed; for, after offering many prayers to God, he even won over the will of those who most strongly opposed his undertaking. It is therefore recorded that in that city, his exceptional charity and other virtues shone forth in a remarkable manner. Certainly, to preach to the people about divine matters, to administer the sacraments of Confession and the Eucharist, to visit the sick, and to assist them in every way, and to console those confined to prisons and encourage them in patience and faith, was the daily exercise of his life. But while he was working so diligently and fruitfully here, a sad message reached him: his mother, afflicted by a fatal illness in Tours, had passed away. John immediately hastened to her, but when he found her deprived of all senses, he had only the opportunity to offer her comfort and to assist her with the last rites of religion so that she might pass away properly. Furthermore, when a house for the Oratory was established in the city of Caen, the Servant of God was declared its President; and when he arrived in the city, he was received with great applause and joy by all, because of the reputation for holiness that he had already left behind. Meanwhile, as the Bishops of Flanders desired that the Congregation of the Oratory be spread in their regions as well, they earnestly requested Cardinal de Berulle to establish a house of the Oratory there. Gladly acquiescing to their wishes, and having previously experienced the Servant of God's prudence and skill in managing affairs, they considered him the

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most suitable person for this task and chose him. Among the various difficulties encountered in bringing the work to completion, a wide field for the exercise of patience was opened to the Servant of God. For when he had gathered considerable fruits from this evangelical labor, the enemy of the human race was grieved, and therefore he stirred up many persecutions against him, until the heretics, filled with hatred, struck him with such violent blows that they almost took away half of his life. Moreover, when the city of Rochelle was besieged by arms by King Lewis XIII of France, the principles of the Catholic religion were being restored in those cities that had been imbued with the wicked opinions of the heretics.

[*Latin ed. p. 531*]

MARSEILLES. There were 531 [persons]. Consequently, it was determined to send preachers of the Gospel to those places, and the Servant of God presided over the missions, which were carried out in the city of Montauban, where he brought back many heretics, freed from error, to the faith of Christ, and his ministers openly declared, admiring his eloquence, the clarity of his arguments, and his sweetness, that they had never heard anyone speak in such a manner; indeed, they said that if all Catholic priests possessed such fervor in prayer, no heretic would remain. Afterwards, having returned to Caen, besides the works of charity with which he was eager to engage, he was requested by the Abbot of the monastery of Pré to assist him in the reformation which he had decided to introduce there, and in this task, although difficult and arduous, the prudence of John proved to be exceedingly excellent. Meanwhile, he learned that his brother was suffering from a deadly illness in the city of Bordeaux. Without any delay, John hastened to him, and Eustachius was so consoled when he saw his brother that he began to recover, and subsequently, in order to fully regain his health, he went to Tours. When the Archbishop of Bordeaux had the opportunity to observe the virtues of the Servant of God more closely, he was so captivated by his virtues that he wished to appoint him as the pastor of the parish of Saint Eulalia, in place of his brother. Furthermore, he fulfilled the duties of an excellent pastor in this office, displaying the same zeal that he had shown in the missions, not only through the ministry of sermons, but also through the examples of his own virtues, inciting those who were his to strive for piety and devotion. And such was the power of his apostolic zeal that he paid no attention to his own health; indeed, as much time as he had available, he devoted to instructing farmers in the precepts of Christian doctrine. Moreover, he frequently heard confessions, assisted the poor in their spiritual and material needs, brought the Holy Viaticum to the sick who were in the fields, and when some suggested that he should entrust this task to his vicars, he replied that he had not yet learned how a pastor could lead others to eternal happiness through a procurator. When Francis de Loménie, who had held the bishopric of

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Marseilles, died, the Archbishop of Bordeaux, recognizing the knowledge and outstanding virtues of Eustachius, spoke highly of him to Cardinal de Richelieu, the chief minister of the King of France, and recommended him to be appointed to that same Church: and this, in fact, came to pass.

[*Latin ed. p. 532*]

532 MARSEILLES. In the year 1639. While awaiting the dispatch of the Bull from Rome, Eustachius fell ill, and as his brother had accepted the episcopal dignity, knowing that he would not long endure, he passed away while in his brother's arms, a death which John bore with Christian composure, as they had previously promised each other. And indeed, the Cardinal de Sourdis considered that he could not find a better successor for our servant of God; hence, he urged Cardinal de Richelieu to have the Bishop of Marseilles appointed by the King, who readily agreed to the request. When the matter was presented to the servant of God, he was greatly astonished and, deterred by the burden of the office, declared that, being aware of his own weakness, he was in no way fit to undertake such a great task; but, after many prayers offered to God by him and the prayers of others to whom he had entrusted himself, relying on divine assistance to promote the glory of God and the salvation of souls, he accepted the office offered to him in the year 1640. In the meantime, while awaiting the dispatch of the Bulls, in order to fulfill the promises he had made with Father de Condren, he devoted himself to the mission at Augsburg, which he carried out with such zeal and diligence that he contracted a serious illness. Following the advice of physicians, who recommended that he breathe the air of his native land, he retired to his small estate at Chesneaux, so that, with his strength restored, he might be able to exercise his apostolic zeal in the diocese entrusted to him. Even though he was confined to his home due to his illness, he never neglected to diligently practice acts of piety: indeed, he celebrated the sacrifice of the Mass daily, and daily the Holy Scriptures and the life of St. Charles Borromeo were read to him, as he had instructed, he devoted himself to the instruction of his servants, and he prepared himself diligently for the proper discharge of his episcopal duties, considering various matters for the proper administration of the clergy and for the instruction of the people. Having recovered his health, as soon as the Bulls reached him, he spent ten days in spiritual exercises, in order to prepare himself properly for the consecration, which he received on October 5th of the year 1642 in Paris from the Archbishop of Tours, in the presence of the Apostolic Nuncio, many Bishops, and Abbots, and he immediately set out for the seat of his honor. On his journey, he recited the Divine Office with the priests who accompanied him, and he privately offered other prayers to God with all his heart, and when he arrived at the

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town commonly called

[*Latin ed. p. 533*]

MARSEILLES. Five hundred and thirty-three paces having been traversed, where he was assured that the boundaries of his diocese extended, he humbly commended himself to the holy patrons of his church, descending from his carriage. He wished to enter Marseilles at night, lest he be met with public honors by the people, and he first went directly to the cathedral church for the purpose of prayer, and from there he proceeded to the episcopal residence, called the "Prépositure"; which, as it seemed to him to be excessively elegant, he desired to reside in a poorhouse, which he considered truly suited to bishops, located nearby. But already the fame of his virtues had preceded him to Marseilles; for Anthony of Ruffi, in the history of Marseilles, which he published before the Servant of God received his episcopal consecration, speaking of the death of Eustachius, wrote: "truly, this loss would have been unbearable for them (the people of Marseilles) if Messer Giovanni Battista Gault, his brother, had not been chosen by the King to replace him in that position, which his virtues so deservedly fill. The depth of his learning, and the integrity of his life are known to all who know his name, and have led him to honors and dignities, by the very paths that he himself followed to avoid them." Consequently, although he arrived in Marseilles at night, the news of his arrival spread everywhere, and therefore many, even those of high standing, came to greet him out of a desire for service and affection, whom he received most graciously. When he considered the large number of visitors, he wished to distance himself from such honor, and on the day following his arrival in Marseilles, he retired to Aubagne, where the Bishops of Marseilles enjoyed royal favor. Eight days after he had resided there, and after he had received only young men with great kindness, stirring them up to hatred of sin, to love of virtue, and to the salvation of their souls, he returned to Marseilles, and the day after, after the sacrifice of the Mass had been celebrated before the altar of St. Lazarus, he attended the Divine Office and the solemn Mass, and after these had been completed, he bestowed a blessing upon the people with such piety, that he aroused the admiration and love of all. He also delivered a discourse to the people after Vespers, and, taking the text of the Gospel for that day, referring to the miracle at Cana, he most skillfully demonstrated that he had entered into a spiritual and inseparable union with the Church of Marseilles, and his words were so weighty and true, and such piety shone forth in all his gestures and demeanor, that scarcely had he descended from the platform, when all surrounded him in a throng, not only seeking

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his blessing, but also his favor.

[*Latin ed. p. 534*]

534. MASSILIEN. He was received with great honor, and even the touching of his garments inspired a feeling of veneration. However, since he was very weak from a lung ailment with which he had previously been afflicted, he began to suffer from it again, and when the doctors of Aubagne suggested that he reside there, he replied that he had been appointed by God as Bishop of Massilia, not as a resident of Aubagne. Since he firmly believed that the office of bishops was to be exercised for the benefit of the flock entrusted to them, as soon as he assumed the administration of the Church of Massilia, he devoted his efforts to increasing piety among the people, to carrying out missions, and to eradicating abuses. In order that ecclesiastical discipline might be maintained, he abolished the custom of granting dispensations for marriages, which were previously granted by two publications, and he established a commission of ecclesiastical doctors who were required to meet once a week, so that no matter of any kind would be undertaken in the diocese without careful consideration. Furthermore, he frequently gave sermons or pastoral instructions to the people, informing them about the duties of piety and the works of charity, and on the first day of Lent, when he spoke about abstinence from food, many who heard him decided to observe the fast, although they were not legally bound to do so. It is reported that a priest, advanced in years, who had been granted a dispensation from certain foods, was so moved by the words of the most pious Prelate that he observed a very strict fast, and even abstained from the use of butter and oil. During his brief pontificate, he took great pleasure in celebrating Mass daily, hearing confessions, visiting the sick in hospitals, monasteries, and almshouses, and performing other works of charity to assist the poor, to whom he generously distributed alms, not doubting that by this example he was providing for their needs. When the administrator of his household complained about the large alms he was giving, he replied that the goods of the bishopric belonged to him less than to the poor, and that he was ready to give away his carriage, his horses, and even his silver vessels, if the revenues were insufficient. He hastened to every place where there were sins to be prevented or where sound advice was needed, and he did not hesitate to visit women who were lost in the mire of vice, and to give them alms, so that they might return to a good life, and some of them, inspired by his illustrious example and his words, were led to a salutary repentance and to the practice of virtue. Moreover, as soon as he heard of any scandal in the city—

[*Latin ed. p. 535*]

MARSEILLES. Having learned that certain individuals had fallen away, he immediately dispatched messengers to inquire, and he rebuked them

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so prudently and gently, that he might lead them to amendment. Most zealous in instilling the principles of religion into the hearts of the faithful, he composed the catechism with his own hand, and he seized every opportunity to teach young people, above all, the rudiments of Christian doctrine. Moreover, knowing that the fishermen were held back by a crass ignorance of Christian duties, he ordered a mission to be begun on the feast of Pentecost, so that they might conform their actions to the evangelical precepts. When he was at home, he received men of all ranks with great kindness, and he always spoke of God in his family conversations. Furthermore, he devoted himself to constant prayer, and while at the table, he took his meals with a spiritual attentiveness to reading; in the evening, he ordered his servants in their chambers to first cast off their consciences, and then to recite together the Litany of the Blessed Virgin and other prayers which he had composed for that purpose; and he himself, as the first, would participate in these exercises of piety, and after they were completed, he would depart. But the greatest proof of John's charity was shown to those who were condemned to the galleys, and were forced to atone for their crimes. When Philibert Emmanuel de Gondy, the commander of a galley, proposed establishing a xenodochium (hospital) in Marseilles, to provide assistance to the sick in their bodily and spiritual needs, the Servant of God undertook the burden of carrying out this work of charity and beneficence. To this end, he collected some alms, and in order to be able to accomplish the work more easily, he sold a portion of his property, retaining only what was necessary for his own needs. But, being prevented by death, he was unable to complete the happily begun work. How much charity he showed to these unfortunate men is clearly demonstrated by the mission he undertook for their spiritual good. Indeed, having brought with him eight Missionaries and six Oratorian priests, of whom five were sent by the Duchess d'Aiguillon to work in Paris, he prescribed certain rules and topics for them to follow in carrying out the mission. This was a difficult and almost useless work, as both laymen and ecclesiastical men judged; but although at first the prisoners were stubborn, nevertheless, through the exhortations of the Missionaries, and through the patience and gentleness of the Servant of God, their hearts gradually began to be moved and changed by the grace of God. It was a beautiful sight to see the Servant of God in those squalid and dark places, enduring without complaint the most foul odors and filth.

[*Latin ed. p. 536*]

536. MASSILIA. He was exceedingly zealous, but utterly forgot himself, and devoted himself to all, having most delightful conversations about God with some, he only lovingly consoled others, he encouraged some to patience, and he did not neglect to attend to sermons and confessions, and in this manner he persevered for the space of two months, so that neither

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his body could be fatigued, nor his spirit overcome by such labor. At times he used the Spanish, Latin, or Italian language, in order to adapt himself to the understanding of all, and when he encountered a heretic or a Turk, he left nothing undone to bring him over to the faith of Christ; until, through the persevering efforts of the Missionaries, and the most diligent care of John, the situation progressed to the point that it yielded abundant fruit for the work. Indeed, many who had not approached the Sacraments of Confession for ten or even twenty years, detesting the evils of their past lives, returned to a good life; many, having renounced the superstition of Mahomet, embraced the truth of the Gospel and desired to be cleansed by the sacred laver of regeneration; and many, having abandoned their miserable errors, returned to the grace of the Church of God: in short, all were edified by the precepts of the Christian religion and duty, and were brought back to the right path to salvation, with immense joy and admiration.

And here occurs a matter worthy of remembrance. When the most benevolent Bishop was disembarking from the ships, a religious man offended him, and informed him that a young Anglican was suffering from a grave illness and had expressed a desire to return to the bosom of the Roman Church. Therefore, he requested that he be granted the power to absolve the young man from excommunication. Upon hearing this, John wished to meet with the young man, in order better to confirm him in the undertaking. When he arrived at the house, he became certain that the captain of the ship had led the young man astray with wicked suggestions and persuasive words. However, John did not lose heart, but with many exhortations and warnings, he strove to bring the erring sheep to Christ, and he did not cease from his salutary work until he received the young man's voluntary abjuration, and thus, three days later, that young man, having received the Sacraments of the Church, died most piously.

Having observed the abundant fruit that John had obtained from the aforementioned mission, he also turned his attention to what could be accomplished in the entire city, and he ordered the priests to instruct the people in the rudiments of the Christian faith, and to prepare them for Confirmation.

[*Latin ed. p. 537*]

MARSEILLES. In the year 537, he undertook to administer the sacrament properly to those for whom he had decided to do so. Meanwhile, while everyone on the ships was engaged in completing the mission, he ordered the Missionaries, to whom other priests had also joined themselves, to return to the captives who had not yet received Confirmation, and to hear their confessions; and nothing concerned him more than to confirm them in the faith, especially because their departure from the city of Marseilles was imminent. Furthermore, in carrying out this task, he devoted so much effort that, on the Sunday preceding the Feast of the Ascension of

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our Lord, he administered the aforementioned sacrament to four hundred or more captives; from which great exertion, he was seized with a fever in the evening, and the illness rapidly worsened, so that, after twelve days, while lying in bed, exhibiting the most noble examples of patience and conformity to God, he breathed his last, repeatedly invoking the names of Jesus and Mary, amidst the tears of those present, on the 23rd day of the month of May in the year 1643. Indeed, the pontificate of this most holy Prelate was brief, but within a short interval of time, he led a life filled with illustrious acts of charity and other virtues, and he would have conferred greater benefits upon the diocese of Marseilles, if God had granted him a longer course of life. ASTORGA, CHORAL SERVICE. On August 27, 1892. By unanimous prayers. SUMMARY OF FACTS. Since the chapter of the cathedral church of Astorga intends to establish new regulations, as it was ordered by the Bishop; and since there is not unanimous agreement regarding certain points of choral discipline to be reformed or established, "it is asked" whether it is possible to retain certain memorable customs, which are still in force in some churches of Spain, and perhaps introduced with apostolic approval; of which, however, if there was any testimony, it perished in the fire, when the archives of this cathedral were consumed by flames during the Napoleonic invasion, at the beginning of this...

[*Latin ed. p. 538*]

538 ASTURICEN. concerning certain customs. These customs, exceeding the memory of men, are as follows: "1. The canons are to enjoy vacations for four months, so that the service of the Church is not diminished; this custom was admitted by the Provincial Synod of Valladolid, celebrated in the year 1887, title VIII, number IX. "2. The Matins with praises are to be said by the hebdomadarius [a cleric who serves the altar for a week] with two canons or beneficed priests in turn, and two singers, except for twenty-five days of greater solemnity, on which all, both those holding dignities and the canons and beneficed priests, are required to be present. "3. They are to receive the entire stipend that is to be given, not for the whole day, but for the year, so that on the more solemn feasts they may receive more from those present, and lose something from those absent; and after the four months of vacation have passed, those who do not reside [in the parish] lose all the income of the prebend. The Bishop, transmitting these requests, explained his mind concerning each point: "1. - Regarding the first point, it seems that although the Provincial Council, in the aforementioned place, has decreed that canons are not permitted, beyond three months, to be absent from the Church... nevertheless, with the privileges granted by the Roman Pontiff preserved, or with a legitimate custom established, it is not certain that this chapter enjoys a pontifical privilege for the four months of absence; and there is great doubt about the legitimacy of the custom. Therefore, it seems better to adhere to the resolution of the Sacred Congregation

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concerning Calaugur, 1531, 'in which it is decided that it is not permissible for prebendaries, by virtue of any custom, even one of long standing, to be absent from their churches for more than three months.' See Lucidi, *De Residentia etc.*, Volume I, page 250, number 9. "2. - Regarding the second point, it appears more difficult for the Sacred Congregation to grant the prebendaries of this church its approval for the validity or tolerance of the custom, namely, that the hebdomadarius, with only two canons or beneficed priests..."

[*Latin ed. p. 539*]

ASTURICEN. 539 Those who perform the Matins with Lauds daily, except on solemn days, shall fulfill the obligations of residence for the others who are absent; so that all Prebendaries, even those absent, may safely receive their allotted hours and perform their duties; and so that the memorable custom, or the tolerance of former Prelates, may never again be invoked, but rather be always praised and commended.

3. – Regarding the third [part]; although the custom of distributing the fruits of all the prebends by hours is generally considered by Canonists to be more in accordance with the law of residence, it sometimes happens that, in some cases, those who are excessively lenient with some absentees, especially during the seasons of Lent or Advent, provide for them, while at the same time they often deprive others. Therefore, it is not surprising that, in general, in the most recent discipline, as happened in the Metropolitan Church of Valladolid, almost all the Cathedrals of Spain have adopted the form of the Council of Trent; namely, to assign only one-third of the fruits of the prebends for the distribution of the hours of Mass and the Office, that is, the Matins and Lauds, so that it may increase only for those who are present; which, in my opinion, is more beneficial to this Church.

Synopsis of Discussions. The law established by the Fathers of Trent regarding this matter is clearly stated in chapter 12, session 24, concerning reform.

Furthermore, those holding dignities, canonries, prebends, or portions in the same cathedrals or collegiate churches, are not permitted, by virtue of any statute or custom, to be absent from those churches for more than three months in any year; saving, however, the constitutions of those churches which require a longer period of service.

Those who have been present at the appointed hours shall receive the distributions; the others, without any collusion or remission, shall be deprived of them, according to the Decree of Boniface VIII, which begins: "The custom, which the Holy Synod restores to use, is not to be disregarded by those who..."

CHAPTER CONCERNING CUSTOMS WHICH ARE OPPOSED TO

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THE CANONS. 1

[*Latin ed. p. 540*]

540 ASTORGA. And with statutes and customs. From this law, it is primarily deduced that the custom of being absent for more than three months, even if of long standing, is not to be maintained, since the very practice is condemned, as is also noted by Gallemart in the aforementioned passage, numbers 30 and 32. Neither is the other custom to be maintained, whereby the Canons do not serve all seven canonical hours, and nevertheless receive the same distributions as if they did serve all seven hours; for the Holy See has declared, and indeed repeatedly, that all hours are to be understood as fixed hours, and has also been accustomed to condemn this very practice. Gallemart in the aforementioned passage, Garcia de Beneficiis, page 3, chapter 2, number 488, and Cardinal De Luca in Annotations to the Council of Trent, Discourse 15, number 17. Furthermore, it should not be forgotten that any custom that contradicts the decrees of Trent is to be rejected, due to the general law invalidating such customs, as decreed by the Most Holy Pope Pius IV in the Constitution *In Principis Apostolorum*. Finally, with regard to the custom of offering the entire distribution, it suffices to recall that, although this, in itself, is more commendable, as it contributes more to the service of the Church; nevertheless, considering the inconveniences mentioned by the Bishop, and other matters relevant to the matter in contemporary Trent, it would seem more prudent not to deviate from the aforementioned wish of the Bishop in this matter as well. It should be noted, on the contrary, that the customs, concerning which we are speaking in this case, do not imply a presumption of an apostolic privilege, simply because these customs extend beyond human memory. It would be too harsh to assert that all Canons have violated the law of Trent from time immemorial, and that all Prelates of Astorga have left unpunished such violations. In general terms. In particular, with regard to the custom mentioned in the second place, it must be considered that the decree of Trent determines the distribution of income for the complete service in all canonical hours, and for this reason the Holy See has been accustomed to disapprove of the customs of those churches that excuse the Canons from attendance and service in some hours; however, this must be understood with the following limitation, as stated by Cardinal De Luca in the aforementioned passage.

WHAT FAVORS THE CUSTOMS OF THE CHAPTER.

[*Latin ed. p. 541*]

ASTURICEN. 541 n. 17: "Provided that the excuse be general and continuous, to the extent that it is possible to grant it in the case of Kosso, where

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a canon might intervene, as long as the impediment to the recitation of the Divine Office ceases; otherwise, if the distribution [of fruits] is made by days or weeks, with some greater dispensation or more lenient schedule [turno] during certain times of the year, since this is permitted, and they are said to serve in all the prescribed hours, and they satisfy the decree of this Congregation in all the hours assigned to them during the days or weeks falling within their schedule." Having explained these matters, the question was raised as to how the prayers should be dispensed.

RESOLUTION. The Holy Congregation, having considered the matter, decided to respond as follows: In the opinion of the Bishop.

FROM WHICH THE FOLLOWING ARE GATHERED:

I. It is not permissible, by virtue of any custom, even one of long standing, to be absent from one's own church for more than three months.

II. The general discipline of the Church is that Chapters of Trent (Tridentini) should adopt a certain form regarding distributions; namely, that one-third of the fruits [of the benefice] should be set aside for distributions to all those who serve [at the altar]; but in such a way that only those who serve [at the altar] are able to receive these distributions.

III. The custom of being absent from the choir for more than three months, while receiving choral distributions in the meantime, has no validity, firstly because it is contrary to the decrees of Trent, against which, according to the opinion of many, no prescription is granted, and secondly because, according to the constant jurisprudence of the Church, it is disapproved.

[*Latin ed. p. 542*]

VARSOVIA, OR LUCEORIEN. MATTER OF MARRIAGE DISPENSATION. Dated August 27, 1892. Session 24, chapter 3, concerning reforms in marriage. SUMMARY OF FACTS. On July 5, 1884, Stephania Jelowicka, of Luceorien, and Thaddaeus de Mezer, aged 38, entered into marriage in Warsaw. The woman was 24 years of age. However, under unfavorable circumstances. Although they attempted to consummate the marriage several times, they state that their efforts were always unsuccessful, due to the husband's disproportionate size or, alternatively, to a vicious conformation of the wife's uterus. After living together peacefully for approximately eight months, the woman returned to her parents' home for nearly four months, in February. In July 1885, she returned to her husband, but a few days later, due to the husband's actions, she was almost forced to return to her parents' home, and the marital union was never resumed. After several years, in March 1889, the woman petitioned the Warsaw ecclesiastical court to declare her marriage null, due to the impossibility of its consummation. The Warsaw court, having received a delegation from

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the Ordinary of Luceorien, initiated a process according to the form prescribed by Pope Benedict XIV, by the grace of God, and the Instructions of the Sacred Congregation of the Council. The woman was questioned by the judge, presented seven witnesses, and finally submitted herself to a physical examination, in accordance with the aforementioned Instructions. The husband also underwent an examination and inspection, but did not present any witnesses. After all proceedings were completed, on April 11, 1891, the court issued a judgment in which, although it did not find sufficient grounds to declare the marriage null, it nevertheless admitted the woman's continued virginity. Subsequently, the Archbishop, in a letter dated January 2 of the present year, while transmitting the records of the process to the Sacred Congregation of the Council, expressed his opinion in favor of granting a dispensation from the marriage, which was valid but not consummated.

[*Latin ed. p. 543*]

WARSAW, OR LUCEORIEN. 543. A Synopsis of the Case. A woman, who seeks this type of dispensation, chooses a patron who, above all, endeavors to demonstrate that the marriage has not been consummated. "In the first month after the wedding," the woman states, "we attempted to consummate the marriage more than ten times, but it proved ineffective, as far as I can understand, and we ceased further attempts." Subsequently, both parties have been afflicted with "irritation of the nerves" due to the inability to consummate the marriage. The husband confirms this, and he is most concerned about consummating the marriage. He believes there exists "a disproportion in the genitals, or a defective conformation of the wife's vagina and uterus"; indeed, "before, my seed always flowed, but after, intercourse was not possible." He is convinced that the primary cause is the difference in stature between himself and his wife; he, as is evident, is tall, while she is small, and appears even smaller than she actually is. From the very beginning, he observed that his relations with his wife were not legitimate; after repeated attempts, he became convinced that it would not be possible for them to live together. The wife, in attempting the conjugal act, willingly cooperated with him.

DEFENSE OF THE WOMAN. She states that there is no possibility of collusion between the spouses, since there has been great harmony between them. Indeed, the woman says: "Our cohabitation was harmonious in other respects; there were only difficulties arising from the inability to have intercourse." And the husband says: "Our conversation was peaceful, because there is nothing in the wife's behavior that I can reproach." The testimony of the actress is particularly important, given her most honorable way of life, which she has maintained since childhood, a fact attested to by numerous witnesses, all of whom are of good standing and proclaim it unanimously. Canon Gorzelanski testifies: "She is a pious woman, and she has

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been raised by her aunt, Countess Ledochowska, in a devout and virtuous manner." Having observed the actress's good upbringing and her probity,

[*Latin ed. p. 544*]

VARSOVIAN. OR LUCEORIEN. I am certain, having been informed by her own judicial confession, that the following facts are true." Mr. Byszewski, Counselor of State, testified, "She is a woman of proven integrity, honest and religious... She told me, while staying with me, that she was unhappy in her marriage, but she did not name the cause of her misfortune"; he further added that he had observed that she "showed no aversion towards her husband, nor had she ever, as is common, spoken ill of him." Finally, to express several things in a single sentence, five other witnesses unanimously praised the woman's honesty and piety. However, he continues, it is not necessary to dwell on the testimonies of the witnesses, since there is a clear physical proof of her integrity, as demonstrated by an examination, carried out in accordance with the instructions of the Sacred Congregation, by three midwives, a matron, and two physicians. Indeed, the midwife Dombrowicz, under oath, testified: "I examined the woman and found her hymen to be intact, undamaged, with a small opening in the center. Although I could see it with the naked eye, the mucous membrane did not allow me to examine it accurately with just my eye; therefore, I examined it with my little finger and understood that it was undoubtedly present; furthermore, I found other signs, namely the characteristics that are usually present in virgins." This is corroborated by Anne Bielinska: "I found the most certain sign of virginity in the woman, the hymen, and furthermore, virginal breasts..." Finally, the midwife Koc said: "I found all the signs of virginity in the woman, and I am convinced that she is entirely inviolate. It should be added that the woman has not consummated her marriage, for the hymen, even if it were so formed, would be cut if it were broken; but as I have stated, it is so formed by nature." The sworn testimony of the midwives regarding the woman's virginity is confirmed by experts in a written report and in a sworn examination. Furthermore, Doctor Bondy, in a written statement, said: "The labia majora are joined together and conceal the labia minora, both of which are very small, and the hymen is intact, especially at the entrance to the vagina.

[*Latin ed. p. 545*]

VARSAVIAN. OR LUCEORIEN. 545: "Light, thin, and not convulsed, with an opening through which the tip of the little finger passes, demonstrate certain virginity." Subsequently, the judge declared: "Considering the evidence presented, I am convinced that Stephania de Mezer is a virgin and has not consummated her marriage; the reason for the lack of consummation may perhaps be demonstrated by an examination of the husband." The physician Sierpinski concurred, stating in his written report, after not-

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ing several signs of integrity: "The presence of an intact hymen proves that she is a virgin," which was confirmed in his sworn testimony. Thereupon, the plaintiff argued that five experts had issued a certain and absolute judgment regarding the woman's virginity, especially considering the integrity of the hymen. However, he noted that the defense attorney had improperly objected to certain statements made by the obstetrician Koc, in which she seemed to doubt the woman's integrity after only a cursory examination. Indeed, in her written report, after noting several signs of integrity, she stated: "The clitoris is small, like a grain of wheat; the entrance to the vagina is narrow; in the middle of the opening, a small fold is visible, resembling a leaf, as if it were the extreme tip of the vagina; further examination is impossible, because the fluid flowing from the vagina only allowed me to insert half of my index finger." And in her sworn testimony, she said: "I found the hymen in the actress to be of a different form than usual. It appeared to be attached in two places, above and below, and between those points of adhesion, I was able to fold the hymen back with my finger. I found the opening to be on the side, about the width of a pencil lead, and I am certain that this was a hymen, and not something else." Furthermore, this obstetrician, like the other two, stated that she had found an intact hymen in the actress, and to the judge, she responded: "I found all the signs of virginity in the actress, and I am convinced that she is entirely inviolate." Therefore, she did not intend to indicate with the aforementioned statements any signs of lost virginity. The same is explained more clearly by Dr. Bondy, who states: "The obstetrician Severina Koc, in her verbal testimony, confessed that..."

[*Latin ed. p. 546*]

546. VARSOVIAN. OR LUCEORIEN. discovered something which she could not define; when asked how the matter appeared, she replied that it seemed like a leaf, or a thin hymen, with an opening through which the tip of the earlobe could pass. Therefore, to clarify how such a small fold should be called, I first asked if, besides the parts of the female genitalia described, she had also found myrtle buds, which she absolutely denied. Then, I asked again how she would call this leaf or transversely folded fold, when there were present the properly formed major and minor labia, a small clitoris, and the absence of myrtle buds. She replied without hesitation: "the hymen." I consider this account given by the midwife to be quite accurate, because, not being able to immediately define the matter, she preferred to express it with a restriction. Midwife Koc indicated the presence of a hymen; therefore, in the written report, I stated that the statements made by the midwives did not differ in the essential points. As for Severina Koc having seen the hymen in a different form than other midwives, I believe this was due to the notable amount of mucous discharge, which she specifically mentioned in her report. Doctor Sierpinski explains the matter in this way:

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"I believe that the fold described by Severina Koc is half of an intact hymen, in the case observed by the midwife; the other half, due to a less accurate examination of the vaginal opening, was hidden. This was especially the case because the flowing mucus significantly hindered the examination, as Koc herself told us orally immediately after the examination. Considering the shape and size, the fold in question cannot be considered a myrtle bud; therefore, I am certain that the midwives were referring to a complete hymen. Therefore, according to the unanimous opinion of the two doctors, there is no indication of damage to the hymen in the statements of Koc. Furthermore, the speaker observes that the hymen does not always have the same shape, which is demonstrated by the authority of Professor E. Hoffman, *Nouveaux éléments de médecine légale*, chapter 1, article 1, § i, who, after stating that "the integrity of the hymen has always..."

[*Latin ed. p. 547*]

WARSAW. OR LUCCA. 547' considered as the most important sign of virginity," concerning the diverse form thereof, he said: "There is no more false idea than that which consists in believing that the hymen in general always presents the same characteristics." It is to be noted that the Warsaw court solemnly declared in issuing its judgment that "the same expert examination proved the inviolate virginity of the actress," but furthermore decreed that no doubt, even a slight one, could arise from the aforementioned words of the obstetrician Koc. Since such a question depends on a fact known to experts, it is rightly prescribed by the Sacred Congregation that an oath and other precautions be observed. But when these have been strictly observed, as in this case, it follows, he says, that the experts should be trusted with the utmost certainty, and that they should rather be called upon to judge than to testify, as taught by Cardinal De Luca, *De iudic.*, disp. 43, n. 80, and by the Abbot in chap. *Proposuisti*, 4 *De probat.*, n. 3. Then, proceeding to the reasons for granting a dispensation, the advocate said that not only ordinary, but also a special cause must be verified, namely, a very serious doubt concerning the relative impotence of the man, or rather, the certainty thereof. He first sought to prove this relative impotence from the deposition of the spouses mentioned above. But furthermore, he says, there is available the concordant and sworn testimony of three physicians. Indeed, Doctor Bondy said: "I explain the relative impotence of Thaddeus de Mezer by nervousness, which I believe to be innate; furthermore, this psychosis increased from futile attempts at intercourse." It should be noted, however, that I believe a great disproportion can be seen throughout the entire organism, and equally in the genitals, of the husband and the actress. This relative impotence—I do not hesitate to say that it preceded the marriage; for I consider the husband's nervousness to be natural, and therefore, in relation to the spouses de Mezer, incurable. Such a condition cannot be defined otherwise than as relative impotence."

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Doctor Sierpinski testified: "Setting aside entirely what was told to me by the husband, I firmly state, based solely on the examination of his body, that among the spouses de Me-

[*Latin ed. p. 548*]

348. VARSOVIAN. OR LUCEORIAN. It has come to pass that a relative impotence exists, and indeed, the more so because, having been present at the examination of the woman by midwives, I conceived the persuasion that she was then a virgin. From a medical standpoint, I can state that a relative physical impotence existing between the spouses of Mezer cannot be cured, because it originates in psychological factors; for Mezer, as he says, has a complete aversion to his wife, who is, physically, rather poorly formed. Since it has been ascertained that the woman was not taller before marriage, I can conclude that the same reason was present from the beginning of the marriage. Finally, the doctor Przewoski, after considering several factors, concludes: "I declare Thaddeus of Mezer to be subject to a relative physical impotence concerning only his wife, and this impotence is probably not curable." From these things, it is clear that three experts agree on the existence of the impotence, and while Przewoski believes it is probably incurable, the other two, who also examined the woman, state that it cannot be cured in any way. This opinion of the three doctors, once issued after a comparative examination, would be sufficient to maintain the certainty of Thaddeus's impotence. But even if admitted as probable, a very serious reason for a dispensation arises, because, rather than a proper dispensation, it is called a prudential administration of justice, declared under the more noble title of nullity of marriage, as taught by Ursava, vol. 3, part 2, chap. 21, no. 104; Cardinal De Luca, *De Matrimonio*, chap. 9, no. 8; Cardinal Cosci, *De Separatorio*, book 3, chap. 2, no. 386, and others. He adduces a second reason from the mutual consent of the spouses in requesting a dispensation, in which case, according to the Canonists, any reason is admitted, provided it is not incongruous, as Cardinal Cosci states in the work cited, book 3, chap. 2, no. 95, and Fagnan. He also states that it is permissible for the man to consent to the dissolution of the marriage, as evidenced by the records of the proceedings. A third reason is given by him from the aversion of the souls, and with no hope of reconciliation, which is considered a very serious reason for granting a dispensation, as Cardinal De Luca states in the place cited, and Sánchez *De Matrimonio*.

[*Latin ed. p. 549*]

VARSAVIA, or LUBLIN. 549, book 12, paragraph 16, number 3, and Cardinal Coscia, op. cit., book 1, chapter 16, number 751. The Archbishop himself testifies to this aversion of the spouses: "The spouses declared in court that they absolutely did not want and were not able to repay the loan, due to nervous irritation resulting from the attempted union." Furthermore, a

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very serious argument follows for granting a dispensation due to the danger of incontinence and the fear of fornication, Sánchez, loc. cit., paragraph 15, number 19; Fagnan, in cap. Verum vel, number 11, on the Conversion of Spouses; Ursaya, volume 3, part 2, number 92. This is, indeed, very to be feared, especially when dealing with a man and a woman of young age, and endowed with robust health. Hence, in the very judicial sentence, it is stated that a dispensation should be granted, because "considering the flourishing age of the spouses and their prosperous health, they are in danger of incontinence." Finally, it is noted that the woman resides among schismatics; therefore, although her probity and religion are celebrated by numerous witnesses, it is to be feared that she might be disturbed and tempted by perverse persuasions to depart from the Catholic faith, from which a grave scandal would follow, and that her example would also be followed by the man, unless it is prevented.

OBSERVATIONS OF THE DEFENDER OF THE BOND.

On the contrary, the defender of the bond first observes that it is unlikely that the marriage was not consummated, not only because the records of the process show that both parties were suitable, but also because it is unheard of for spouses, moved by free and ardent love to enter into marriage, to then depart from the marital bed without employing any remedies, nor seeking the advice of doctors to remove any impediments, when they have experienced that their natures are compatible. Indeed, Stephania confesses: "I never sought the advice of doctors, except for some herbs to calm my nerves; I have used no other medicines." To which the man responds: "I have not sought the advice of doctors to remove impotence." Therefore, one fears that there may be a serpent hidden in the grass, since it is well known that "what is unlikely, presents the image of falsehood," and even more so, if the spouses did not immediately...

[*Latin ed. p. 550*]

§50 VARSAVIEN. OR LUCEORIEN. They proclaimed the marriage, but for eight months they lay in the same bed, and the woman, in her fifth year of marriage, declared to the Bishop, as cited in chapter 1 concerning frigidity, and in the writings of Malefic and Barbosa, chapter n. 6, it is said: "From delay, deceit is presumed." Then, expounding the arguments presented to demonstrate the integrity of the woman, he said that, according to Sánchez de matrimonio, book 1, section 45, number 33, the husband's confession proves nothing, because it is favorable to those who confess. Regarding the seventh witness, he marvels that, although the woman had proposed ten witnesses, and the husband had promised to bring them, and then, after presenting only seven from the woman's side, she requested that the case proceed "omitting the investigation of the witnesses of the

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seventh witness from the husband's side, since he is delaying their presentation"; however, he obtained from the judge a dispensation regarding the presentation of the witnesses. But in requesting this dispensation, it is stated that the witnesses were unwilling to submit to examination "despite insistent requests and encouragement"; and the reason why they refused to appear is withheld, perhaps because it would have harmed the outcome of the case. Furthermore, Thaddeus does not easily admit that he or any relative could be found who would support him in court, if the cause were just. Therefore, he insists that the oath of the seventh witness be taken by both parties, because it is of the utmost importance, according to Sánchez, op. cit., book 7, section 108, number 7. Regarding the testimony of the midwives who examined Stephania's body, he notes that two admitted that they were only able to perform their task imperfectly. However, midwives are obligated not only to examine, but especially to observe the female genitalia. Indeed, the midwife Koc said: "In the middle of the vulva, a small fold is visible, resembling a leaf, like the extremity of the vagina; further examination is not possible, because the fluid flowing from the vagina does not allow it." The midwife Dombrowicz agrees, saying: "I saw in the actress an intact, undamaged hymen, with a small opening in the middle; I saw it with the naked eye, but the mucous secretion did not allow me to examine it accurately with the eye alone; therefore, I examined it with my little finger, and I understood that it was undoubtedly present."

[*Latin ed. p. 551*]

WARSAW, OR LUCEORIEN. 551. Furthermore, the midwives report certain observations that cast doubt on the actress's virginity. Indeed, the hymen appears to be so widely open that, according to the midwife Dombrowicz, "the tip of the little finger can pass through it"; moreover, Severina Koc reports: "I was only able to insert half of my little finger," and the speaker notes that the doctor Sierpinski asserted that she was "very apprehensive and fearful" during the examination, "for fear of injuring the hymen." In addition, Koc recalled the aforementioned caruncle, noting: "The entrance to the vagina is narrow, and in the middle of the hymen, a small caruncle is visible, resembling a leaf, as if it were the tip of the vagina." However, the doctor Sierpinski writes: "The caruncle described by Severina Koc, I believe, is half of an intact hymen in the case observed by the midwife; the other half was concealed due to the less accurate introduction into the vagina, and moreover, the flowing mucus significantly hindered the examination." Therefore, if "the flowing mucus significantly hindered the examination," it suggests that the authority of the examination is small, especially since the impediment concerned the hymen, the primary sign of virginity; and therefore, the midwife Dombrowicz confesses: "The secretion of mucus did not allow me to examine (the hymen) accurately with the naked eye." Furthermore, it is noted that there is suspicion that the

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midwives, through error, declared the actress to be a virgin, because she was not pregnant. Indeed, those who mention one or two signs of integrity concerning virginity speak improperly. Thus, Dombrowicz says: "Besides this principal argument of virginity (namely, the hymen), I also found other signs, namely, the breasts, which are as they usually are in virgins; although somewhat loose, or rather, lax and soft, for they are smaller than they could be if they were truly lax; nevertheless, they are not of the kind that are found in women who have given birth, and therefore, in those who have consummated marriage." Finally, there is concern that the midwives and doctors may have tried to please the actress rather than the truth. Indeed, Severina Koc, free from any bias, mentioned the caruncle in her written report.

[*Latin ed. p. 552*]

VARSOVIAN. OR LUCEORIEN. It is said that she arrived; however, the small growth and the intact hymen differ so much from each other that it is not easily understood how the midwives Dombrowicz and Bielinska could have safely proclaimed the hymen to be intact, especially since "the discharge of mucus would have significantly hindered the examination." Furthermore, it is stated that Severina Koc, in a written account given before speaking with the doctors, confessed that she only found the small growth, and then, with the assistance of Dr. Sierpinski, "she saw half of the intact hymen; the other half had to be hidden due to the less accurate introduction into the vagina"; finally, she asserts that in the judicial examination, after speaking with the doctors and perhaps with other midwives, she saw the intact hymen. Indeed, before the judge, she confesses without ambiguity: "I found the hymen in the actress in a form different from the usual. It appeared to be attached in two places, above and below; and between those points of adhesion, I was able to fold the hymen back with my finger. I found an opening on the side, of a size and thickness like that of a pencil lead; I am certain that this was the hymen, and nothing else, and I communicated my observation to the doctors. I add that the actress had not consummated marriage, for the hymen, even if it were so formed, would have been broken if she had; but it is intact, and is so, as I stated, by its natural conformation." It is noted that Stephanie's own actions demonstrated that the midwives and doctors had been too lenient with her, since she was horrified by the prospect of a new examination. The prosecutor, Vindex, insisted "that a new commission be appointed, consisting of doctors and midwives, to definitively establish the state of her virginity, and if this appears to be too burdensome for the actress, then at least two doctors should be designated to examine her." The judge accepted this just request; but Stephanie declared "that she did not want to undergo a new examination." Proceeding then to the reasons for the dispensation, it is stated that all those presented related to impotence; but this is unfounded.

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For, according to the doctors, this impotence derived from a physical cause, namely, a discrepancy in the genitals, and from a moral cause, namely, aversion of the mind.

[*Latin ed. p. 553*]

WARSAW, OR LUGEORIEN. 553 Regarding the physical cause, midwives are to be heard, who with one voice report the remarkable flexibility of the female organs. Furthermore, Iosepha Dombrowicz states: "The female organs of the actress, like the entire organism, are weakly developed and sufficiently loose and soft, so that they do not, of themselves, constitute an impediment to consummation of marriage... The hymen has delicate and tender margins, and therefore I believe it can be easily torn." Severina Koc: "The female organs of the actress are loose and soft, and of themselves do not constitute an obstacle to the consummation of marriage." And Anna Bielinska: "The genital organs are sufficiently loose and the hymen is soft, so that they do not, of themselves, constitute an impediment to carnal intercourse. I believe it can easily be torn." Regarding the aversion observed, it is noted that, according to the spouses, it arose after they engaged in combat with bad omens in the marital arena. But it would be more fitting (although it is not demonstrated) that the spouses departed from the palestra, infected, as it were, because it has been shown above that the female genitalia, being so flexible, offer no obstacle to the man, and therefore the aversion of the spouses would be attributed to their will. But even with this admitted, the marriage would remain imperfect, and the resulting dissociation of souls, whereby the man cannot cohabit with his wife, would not provide a just cause for a dispensation, because this impotence vanishes with the passage of time, as Zacharias questions, in the medium, legal, book 3, title I, question 5, number 59. Having considered these points from both sides, the matter to be decided is this: Whether it is necessary to consult with the Most Holy Fathers regarding a dispensation from a marriage that is valid but not consummated in this case. RESOLUTION. After deliberation by the Sacred Congregation on August 27, 1892, it was decided to respond: Affirmative.

[*Latin ed. p. 554*]

554 MANTUA AND MILAN. MARRIAGES. December 10, 1892. Session 24, chapter 1, Concerning reforms in marriage. SUMMARY OF THE FACTS. Dantes Guaita, born on September 1, 1860, in the town of Moglia, in the Diocese of Mantua, obtained permission in Milan in 1879 to practice the profession of a tailor. There, he validly contracted marriage in 1885 with a certain Merope Gadioli. After living together for about three years, he turned his attention to other pursuits, and on January 23, 1888, he legitimately entered into marriage in the aforementioned town of originis with Aloysia Sissa, aged 27, born there, whom he had known well since child-

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hood. Immediately after the marriage in Mantua, the spouses went to Milan, and on the following day, they were together in the same bed. However, the consummation of the marriage does not appear to have taken place, due to the resistance of the bride, who proceeded to the point of appearing delirious and mentally disturbed. Subsequently, her mother arrived, and after a few days, she returned home with her, in order to better promote her recovery. Shortly thereafter, the husband inquired about her condition, and after about three months under the care of a specialist, it seemed that she had regained her former health; he informed her of this by letter, and expressed his desire to return to Milan. The husband agreed to this, but with the condition that he should be assured, by the testimony of the attending physician, as well as of his own brother and the bride's brother, of her complete recovery. However, as he himself asserts, he learned that the bride had relapsed into the same illness, so he returned her belongings and broke off all relations with her. Nevertheless, a year later, in 1890, he inquired of her whether, having recovered her health, she would be willing to live with him, or po-

[*Latin ed. p. 555*]

MANTUA AND MILAN. In the year 555, a certain man wished to abandon his wife and enter into other nuptials. But the woman, who had been prepared to restore her cohabitation with her husband, subsequently refused, because she had learned that her husband had begun to desire another woman; and the husband, likewise, no longer wished to receive his wife, because she does not have the proper use of her mental faculties, and suffers from a disease which expert physicians consider to be hysterical or a mental derangement. In this situation, the aforementioned man appealed to the court of Milan, so that it might, before the Most Holy Father, interpose its authority for the solution of the marriage, which had not been consummated; and the court, by reason of the domicile of the aforementioned man, immediately instituted a judicial process, and examined the man himself. Observing that the witnesses of both spouses, along with the bride Aloysia, resided in the diocese of Mantua, and that it would be very difficult to summon them to Milan to give testimony, the matter was delegated to the Bishop of Mantua, who diligently and carefully fulfilled the task assigned to him, in accordance with the course of law.

Synopsis of the Discussion. The Consultor stated that, in order to invoke a dispensation, two extreme conditions must be verified: 1. That the marriage has not been consummated. — 2. That there are reasons for invoking a dispensation. Before it can be demonstrated that the marriage between Dante and Aloysia has not been consummated, it seems necessary to consider what is asserted by the Cleric, following Sánchez and other Doctors of the law, namely that the consummation of marriage is determined differently in the forum of law, and differently in the forum of conscience. In

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the forum of conscience, not only is necessary penetration of the vessels, but also a union that is apt for generation, and through which the spouses become one flesh, representing the hypostatic union of human nature in Christ. In the forum of law, on the other hand, penetration of the vessels is sufficient, from which, attention is given, the possibility of conception is presumed. No credence should be given to a husband who says that he has not sown seed, because the act is presumed, since it frequently occurs.

VOTUM THEOLOGI.

[*Latin ed. p. 556*]

§86 MANTUA and MILAN. We refer to the decision in Sacramenta, concerning marriage, number VIII. Therefore, in the forum of the court, whenever it can be proven that there was a lack of penetration of the marital vessels, it is decided that the marriage was not consummated. Indeed, in the specific case we are discussing, the circumstances suggest that the penetration of the marital vessels was lacking. Firstly, there is the concordant confession of both parties, confirmed by oath. And there is no reason here to deny them their testimony, since Dante, without Aloysia objecting, requests a dispensation, not because of any other reason, but because, uniquely among them, marital union has proven impossible, whatever the cause. If Dante had simply desired, but not been able to achieve, the consummation of the marriage, he would not even consider seeking a dispensation to transfer his vows elsewhere. I would hesitate, and I would believe that the wife's testimony should not be given credence, in the case where Dante, after a long time, showed himself to be estranged from his wife, and sought hope for a better fortune in Aloysia. However, this suspicion is unfounded, if we pay close attention to the circumstances surrounding the case. Dante is not motivated to assert that the marriage was not consummated by the hope of regaining his freedom, by new loves, by a more attractive form, and by all those things that lead a man of loose morals to lie, but rather by the lack of consummation. Aloysia frankly confesses this, which strengthens the husband's assertion; Aloysia is not compelled to lie by the hope of a better fortune, than the one she dissipates by spreading the suspicion that she is not of sound mind. Therefore, if Aloysia denies what Dante affirms, I confess that I do not know why the testimony of both should be denied. To the confession of the spouses, confirmed by oath, is added the testimony of witnesses. And although Aloysia, held back by filial reverence, refrained from revealing the lack of consummation to her mother, she did not conceal it from her brother's wife, to whom she revealed enough for us to conclude that she is always and consistently truthful in asserting the lack of consummation. The defender of the marriage can, on the contrary, infer from the cohabitation,

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which was not for one occasion, but for four or...

[*Latin ed. p. 557*]

MANTUA and MILAN. 557. It has occurred five times among spouses, as we gather from their confessions. This circumstance, as Cosci notes in book 1, chapter 16, paragraph 46, leads to a presumption of consummation. Therefore, the sworn confession of the spouses admits of an exception. But the contrary presumption is dispelled by the examination of the spouse; this argument removes all doubt and establishes certainty. Sánchez, book 11, Decretum 22, paragraph 2. Indeed, both midwives appointed for the examination of the body affirm that Aloysia was a virgin, and their testimony is sufficient to remove all doubt. Virginia Zenesini testifies that the genital parts of Aloysia were so tightly closed that not even the tip of a finger could be inserted. Ceresa Adelaides also confesses that she found such tightness in the vagina of Virginia that not even the tip of the smallest finger could be admitted. Both affirm under oath, and testify that Aloysia had not been known by a man. It must be considered here whether there are causes present that would warrant an appeal to the Pope for a dispensation from a valid marriage. There are theologians who affirm that no cause is required for the dissolution of a valid marriage, but I do not think this is correct. For Benedict XIV, in his Bull, *Ecclesiae Dei Miseratione*, § ct, says: "Because, concerning a dispensation from marriage, we wish and command that a suppliant petition be presented to us or to the Roman Pontiff for the time being, in which the entire nature of the case is fully and accurately contained, and all the causes that may be deemed to contribute to obtaining the requested dispensation are expressed therein." But what causes? And of what kind? They are not specified, and of any kind, provided they are just and sufficient, as Diana points out. Furthermore, among the sufficient causes, the repugnance of either, or at least of one, is also included. I say at least of one, because, according to Cosci, book 1, chapter 16, paragraph 10, even if one of them disagrees, similar dispensations are granted, as the Holy Congregation of the Council decreed in the Jamiensis cases, on May 20, 1719, and January 29, 1720. And to those who were granted this dispensation by the Apostolic See, both spouses were permitted to enter into other marriages, as was declared on July 16, 1599. This is the case.

[*Latin ed. p. 558*]

558 MANTUA and MILAN. With regard to our matter, both parties clearly desire to avoid the issue, and both are unwilling to restore the individual's accustomed way of life. Aloysia, indeed, is mild, but Dantes is absolutely firm. When questioned as to whether he was prepared to receive her back, he answered absolutely in the negative. This disposition of mind makes concord impossible on her part. The same intention is found in Aloysia, as is evident from her mother's sworn testimony. What

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most persuades me that a dispensation from the valid marriage should be invoked is the particular circumstance in which Dantes finds himself, which is voluntary and culpable, but which has on several occasions led the Supreme Pontiff to grant a dispensation. The General Vicar of MILAN earnestly implores this dispensation in a letter to the Cardinal Prefect of the Sacred Congregation of the Council, and this in order to avoid grave evils. He does not reveal what these evils are, but he asserts that they are grave, and to one who asserts this, no one will deny that credence should be given. However, the Archbishop, in a suppliant letter given to the Pontiff, declares what these evils are; namely, that Dantes is already acting as if married to another woman, which he can easily accomplish, since he contracted the marriage with Aloysia before the Church, but it is not recognized in the civil forum, from which forum he fears no impediment, since in that same forum he appears to be unmarried. The Archbishop fears concubinage, and to avoid this, a dispensation from the valid marriage is sought. THE OPINION OF A CANONIST. "I believe," says this canonist, "that the object of the present case consists in the fact that the marriage entered into between Dantes Guaita and Aloysia Sissa is considered valid, but not consummated. Therefore, with respect to the canonical aspect, I must inquire whether this is truly the case; namely, I must inquire 1. whether the marriage is indeed not consummated, 2. whether there are grave and reasonable grounds for dissolving the marriage, so that it should be advisable to petition the Holy See for a dispensation. And above all, I believe that the decision of this first part is of the greatest importance: for it is..."

[*Latin ed. p. 559*]

MANTUA AND MILAN. 559, as if a foundation, and the basis for a good or bad outcome of the same cause. And first, from the procedural records, a serious fact is presented to us, which certainly appears to pertain to the consummation of the marriage, namely, the cohabitation and sleeping together of the spouses, for three nights, in the same bed. This would suggest a reasonable presumption of consummation. It is stated in the depositions of the spouses that this occurred the first night in Mantua, in the house of the bride, Aloisia, and on the two subsequent nights in Milan, in the house of the groom, Dante. However, despite this presumption, both spouses, under the sanctity of oath, testify that their marriage was not consummated; in this case, the axiom of the canonists is verified: "presumption yields to truth." From the depositions presented, both of the woman and of other witnesses, the consummation of the marriage by the husband, Guaita, is completely excluded, and the opposition of the bride, Aloisia, to the conjugal act is explained: this opposition can be attributed to her own simple nature, her timidity, and her love of modesty; but especially to the grave distress she experienced, as she says, from a certain person who had

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spoken to her about the great duties of marriage. Although Aloisia Sissa's depositions, even if they remove two considerations of the consummation of the marriage on the part of the husband, the true consummation of the same is entirely rejected due to the firm reluctance of the woman, who seemed so averse to the conjugal act that she appeared, as it were, delirious and mentally disturbed, and therefore alienated the marital affection of her spouse, and received no sign of love from him, not even the smallest. Having heard the depositions of both spouses, which completely exclude the consummation of their marriage, let us now see whether, according to the sacred canons, all possible faith should be given to them, or denied. And first, what the Supreme Pontiff Celestine III teaches in chapter 4, beginning with the words: "But, truly, if both declare that they have never known each other, with the seventh person present, whether a relative or a neighbor of good reputation, if relatives are absent, and after the Gospels have been read, each, under oath, declares that he has not..."

[*Latin ed. p. 560*]

560 MANTUA and MILAN. Since they were united in one flesh through the bond of marriage, it seems that they may be able to enter into a second marriage. And Sánchez, volume 2, on marriage, dispute 82, paragraph 16, states: "It is believed that they may. . . especially if the spouses have been examined to ensure that they are free from seven degrees of consanguinity, as mentioned in the text in chapter [of the letter], and that there are no impediments on either side, nor are they related within seven degrees, nor are they of good reputation and well-instructed in matters of faith." Thus, Hostiensis, *Summa de coniugiis*, number 9, states that if someone... Bald. Deo nobis, in the beginning of the chapter on bishops and clergy, number 7, and many others. Furthermore, in the present case, this is fully verified with regard to both spouses, as abundantly shown from the above. From these facts, it is also clearly shown that the wife's reluctance to engage in marital relations was a true cause for separation. Moreover, the confession of the spouses is of great importance, as it seems to me, if their integrity is considered, and especially the innocence, and piety of the bride, Aloisia Sissa, who, according to the testimony of witnesses, is endowed with excellent morals, and who is described as a young woman of good character, timid, and modest, and who, according to the testimony of Dario Guaita, is not considered suitable for marriage. But her modesty, and her singular reserve, are wonderfully evident in the examination of her person, which was imposed upon her by the Bishop of Mantua, according to the constitution of Benedict XIV. No one doubts that the confession of both spouses is of great importance, especially when it is supported by the testimonies of other witnesses, as is verified in this case. The aforementioned testimonies of the witnesses undoubtedly confirm the testimonies of the spouses; and although they are based on hearsay, nevertheless, according

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to the Roman Rota, they are entirely worthy of credence; for, it says, "in matters of difficult proof, and in proving those things which are done within the walls, joined with supporting evidence, they fully prove." Decrees 155, paragraphs 16 and 17, and paragraphs 51 and following, paragraph 6; and decree 270, paragraphs 3 and 4, part 13; also decree 164, paragraph 17, part 14. But the aforementioned witnesses are undoubtedly supporting witnesses; for they had heard grave things about the spouses.

[*Latin ed. p. 561*]

MANTUA and MILAN. 561. Circumstances, attested by trustworthy individuals, such as, for example, the wife's reluctance to perform the conjugal act, the husband's lamentation because he had not been able to exercise his marital right, and finally, the mental derangement of the aforementioned wife, due to two consummations of the marriage performed by Dante Guaita. All these circumstances fully corroborate the matter. This is relevant to what Cosci writes in *Lib. 3. de separ.*, cap. 2, n. 250, with these words: "Therefore, when there is the confession of both spouses, especially if repeated, with an oath, as well as with the oath of the seventh hand, and with the testimony of a midwife, publicly declared, and with reputation, and with other supporting evidence and arguments, it seems that nothing prevents the validity of the marriage; for there is not a small distance between validity and effect, and any presumption, which does not constitute proof, but only a presumption, must entirely yield to the truth." Cardinal de Luca, *De Matrim.*, disc. 9, n. 15, *Marc. Decis.*, 407, n. I, part. 2. Also, Ursaya, *Disóep. eccles.*, part. 2, part. 1, discept. 3, n. 45, says: "The cohabitation of spouses does not cause the marriage to lose its quality and its validity, when it has not been consummated with effect; therefore, precisely because such consummation is not proven, whether the spouses have lived together, or have cohabited, it is always true that the marriage is simply valid, and consequently subject to the power of the Supreme Pontiff concerning its dissolution." And again, in vol. 3, part. 2, discept. 21, n. 147 and following: "Cohabitation," he says, "of spouses in the same bed, just as it does not cause the marriage to lose its quality and its validity when, in reality, it has not been consummated; so it cannot be properly adduced as a reason for the difficult concession of a dispensation." Now, it must be inquired whether the aforementioned testimonies of witnesses correspond to the fact, which is conclusive proof, eliminating all doubt, namely, the examination of the body of Aloisia Sissa, properly performed by suitable midwives. From the records of the process, it is clear that two midwives were appointed to examine the woman's body: whose sworn testimonies are in Act, Tem. XXV, fol. CCXCVII, 3G.

[*Latin ed. p. 562*]

562 MANTUA and MILAN, with unanimous judgment, declared

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Aloysia to still be a virgin. Therefore, this relates to what Sánchez writes in book 2, disputation 23, on marriage: "If the bride was not a virgin, and the dowry has not been transferred to Tarifa, the faith of their oath is to be considered; because, in the absence of any proof, it cannot be determined whether the transfer took place, and if it did not take place, along with the oath, a judgment is urgently required. If she was a virgin, and such an appearance is evident, even if the dowry has been transferred to the groom's house in Tarifa, it is to be believed; because all proof is outweighed by the testimony of appearance, which contradicts it." Thus, Ancaranus teaches in chapter 3, concerning public conferences on marriage. Hostiensis, Baldus, in the cited place, and others. Indeed, it seems that through this inspection, properly carried out, it can be certainly and morally known that the young woman is chaste. This proposition is most strongly confirmed by the opinion of the most esteemed Scipio, and by the lawyer Raphael Ala in his work "II Foro Criminale," volume 7, page 120, number 20, where he recounts certain real and natural signs of virginity, by which it can undoubtedly be argued that a woman has never been violated. For the sake of modesty, I will omit these signs, as anyone can read them in the authors, according to their own discretion. And in our case, it should be considered that Aloysia Sissa was never violated, and in addition to the arguments mentioned above, it is sufficient to consider her own character: timid, modest, endowed with good morals, as the witnesses unanimously affirm, and who strenuously resists any conjugal act, almost offering a heroic sacrifice, tolerating it with humble submission, namely, the inspection of her own body. It does not escape me that some writers collect various opinions of experts, from which they attempt to demonstrate that any inspection of the female genitalia is of no importance, so that we can never be certain of her integrity or corruption. Given this, it is clear that all the teachings and rules that celebrated writers, both ancient and modern, have transmitted to us on this matter would be completely useless. Likewise, the wise prescriptions of the Church, established for carrying out such inspections, should be considered superfluous, especially the most celebrated ones of St. [Pon-].

[*Latin ed. p. 563*]

MANTUA and MILAN. Section 63 refers to the Constitution of Benedict XIV, the Instruction of the Holy Congregation of the Council of August 22, 1840, and the Instruction of the Holy Office: which no sane person would dare to assert. Indeed, I myself acknowledge that the state of virginity contains certain phenomena which are inscrutable even to those skilled in the arts, due to the varying physical constitution of individuals, circumstances, and inconveniences, whether material or moral; through which, often, judgments are made on the same matter, lacking absolute certainty. But this does not prevent a prudent and conclusive judgment

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from being formed, grounded in moral certainty, which is sufficient for a judge to pronounce a sentence with a safe conscience. For absolute, physical certainty is not required by the sacred canons; which is often impossible to obtain. Therefore, as Coscius writes in book 3 on sepulture, chapter 2, paragraph 146: "When dealing with a hidden fact, from which witnesses are absent, and proofs cannot be certain with physical certainty, but are certain with moral certainty, which can establish the mind of the judge, just as conjectures, indications, and other arguments are jointly weighed; as is commonly taught by canonists and theologians." The same truth is confirmed by the renowned Zacchia in book 4, title 2, question 2, paragraphs 8 and 9, who, after describing the symptoms regarding the hymen, color, and union of parts, both in virgins and in those who have lost their virginity, concludes: "Therefore, all these signs, concurring together, provide clear evidence of intact virginity. For what each individually cannot testify, together they can." Therefore, from what has been said so far, it appears that the marriage is not consummated in this case, as both spouses, the witnesses, public opinion, and both midwives attest, and confirm with their oaths. Now, it must be inquired whether there are just causes for the dissolution of the marriage, and whether it is necessary to consult with the Most Holy Father for the granting of a dispensation. It is possible for the Supreme Pontiff, possessing the supreme authority received from Christ the Lord in the person of Peter, to...

[*Latin ed. p. 564*]

564. In the cases of MANTUANA and MEDIOLANEN, it is undoubtedly permissible to relax marriages that have been validly contracted but not consummated. For, as Coscius states in *De separatioribus*, book 1, chapter 16, paragraph 4: "It is well known that several Supreme Pontiffs have done so; and if we were to wish to doubt, today, after so many examples of the power of those same Supreme Pontiffs, it would be the same as disapproving of their actions; which, as the sacred text in Law 2 of the Code of Sacrilegious Crimes condemns, is sacrilegious." Farinacci, *Consilia*, 65, paragraph 45, book 1. *Vera Crux*, Speculum, part 2, article 23j, states: "To doubt the power of the Pope, after he has granted a dispensation, is like sacrilege; for it would be as if one were to reproach Christ for not having seen what was best for His Church." Furthermore, theologians and canonists commonly teach, although some hold the opposite view, that grave reasons must be present to grant such a dispensation. And as Sánchez states in *De Matrimonio*, book 2, disputation 15, paragraph 5: "The indissolubility of marriage is established by natural and divine law, and a dispensation granted by the Pope without a just cause is entirely invalid." Indeed, in the present case, grave reasons are clearly present that not only suggest the use of the Pope's authority, but even demand it, as is evident from the very nature of the facts, as explained above. And truly, the first

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reason that theologians and canonists cite is alienation of affections. This alienation of affections existed between Dante Guaita and Aloisia Sissa, both from the beginning of the marriage and subsequently, as is clearly shown by the procedural records, which undoubtedly led to a reluctance to engage in conjugal acts, and Aloisia's reluctance was also caused by the fact that her husband gave her not the slightest sign of love, as she herself confesses, and this completed their separation. In addition to this alienation of affections, there is another factor that Caietanus, in volume 1, opusculum, treatise 28, considers as a complement to a sufficient cause for obtaining a dispensation, and that is the consent of both spouses. There is no doubt about Dante Guaita's consent, since he himself presented a petition to the Archbishop of MEDIOLANEN to obtain the dissolution of his marriage, and he absolutely refuses to return to his wife.

[*Latin ed. p. 565*]

MANTUA and MILAN. 565 Furthermore, there is no doubt, based on the consent of his wife, Aloisia Sissa, as evidenced by the answers given in the questions posed to the woman in court. A third reason, which is assigned by Sánchez in book 2, chapter 15, concerning marriage, is the fear of a great scandal. However, it can be presumed, with good reason, that Dante himself was living a concubinage; for he began to desire another woman at the beginning of the year 1889.

OBSERVATIONS OF THE DEFENDER OF MARRIAGE, BY OFFICE. The legal bond, which Dante Guaita, aged twenty-eight, contracted on January 23, 1888, with Aloisia Sissa, who was over twenty-seven years of age, is declared imperfect, based on the mutual confession of the spouses and the examination of Aloisia's body by two midwives. However, both arguments appear dubious. Firstly, concerning the sworn confession of the spouses, it proves nothing by itself, because, as Sánchez states in book 2, chapter 45, paragraph 33, when both spouses desire the marriage to be dissolved, it is advantageous for the confessing parties. Secondly, concerning the husband, Dante Guaita, it is clear that he is contradicting the truth. For he confesses that he wrote to his wife, last summer, to ascertain whether, having recovered her health, she would return to him, or whether he should release her, in order to enter into new nuptials, since the marriage had not been consummated; and that she responded that she was released from all obligations. However, the wife, on the contrary, confesses that she wrote to him, stating that she would not release him, but that she would go there to fulfill the duties of a good wife. Furthermore, when questioned by the judge whether he knew if his wife was still a virgin, he replied that he did not know, because he had not been able to fulfill the conjugal act. However, the mother of the actress reports that she once asked whether there had been any animosity between them, because the husband had not found his wife to be chaste; but the husband replied

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that he had found her to be an angel in that regard. Finally, Dante himself states: "Her mother asked me, when I visited Milan in 1888, whether the conjugal act had been performed."

[*Latin ed. p. 566*]

566 MANTUA and MILAN. I was asked, but I replied that I would return the daughter to her mother, unharmed. But the wife's mother, questioning the judge, asked whether the husband had said anything about the consummation of the marriage. She replied that he had said nothing, nor had she ever asked him. Nor is the testimony of the midwife conclusive. Furthermore, the instruction issued by the Sacred Congregation of the Council on August 22, 1840, states: "The judge shall appoint THREE midwives, of whom at least TWO shall be carefully instructed in the examination of women, by sight and touch... These experts shall be subjected to a formal examination, and information shall be obtained from them regarding the accounts and depositions given by the midwives." However, in the matter under consideration, the examination of the body was entrusted to only TWO midwives. These midwives mention only a few signs of virginity; indeed, they are usually silent regarding the most certain sign of inviolate virginity, the hymen. Nor was their testimony considered by the court of experts. Considering all of this, the proposal was to be reconsidered. It is doubtful whether one should consult with the Most Holy Congregation regarding a dispensation for a marriage that is valid but not consummated.

RESOLUTION. The Sacred Congregation of the Council, after discussion on December 10, 1892, decided to respond: Affirmative.

FROM WHICH THIS IS DERIVED:

I. From the law, both spouses who deny the consummation of the marriage can be believed; as the text states: "If they have never known each other, both may declare, with the seventh relative swearing an oath, that they have never had carnal intercourse... and they may proceed to a second marriage."

II. Therefore, the pardon of the spouses does not invalidate the quality of a valid marriage when it has not truly been consummated; and the lack of consummation is proven by the sworn confession of the spouses, by the testimony under oath of the seventh relative, by the judgment of a midwife, and by public opinion.

[*Latin ed. p. 567*]

MANTUA and MILAN. 567 III. Moral certainty regarding the non-consummation of marriage is generated by the obstetric examination; when the signs of real and natural virginity are found; in such circumstances, it can be argued that the woman has never been violated. IV. Absolute

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and physical certainty is not required by the sacred canons; because it is often impossible to obtain; and since the matter concerns a hidden fact, from which witnesses are absent, and proofs can be certain not by physical certainty, but only by moral certainty, to which the mind of the judge can adhere; just as are conjectures, indications, and other arguments to be considered jointly. V. All of these things are desired in this matter; therefore, the marriage was considered to be only valid, and consequently subject to the authority of the Supreme Pontiff regarding its dissolution. FROM THE EDIFICE OF THE VICARIATE OF THE PIOUS ASSOCIATION OF THE HOLY FAMILY: RULES I. PURPOSE. — In the brief Apostolic document *Neminem fugit*, from His Holiness Pope Leo XIII, promulgated on June 14, 1892 (1) for the entire world, it is stated that the purpose of the Pious Association of the Holy Family is: "to bind Christian families with a closer bond of piety to the Holy Family, or rather, to completely dedicate them to it, with the intention that Jesus, Mary, and Joseph may protect and cherish the families dedicated to them as their own property"; therefore, all those who belong to this society must strive "to live their lives, with united faith, with charity of will, in love of God and of men, according to the example." — To achieve these things more easily and certainly, the Cardinal Vicar of the Sacred City, appointed by the Most Holy Pope Leo XIII as President and Patron of the entire Association, after hearing the deliberations of the council, decreed the following to be observed. (1) See the brief document on page 8 of this volume.

[*Latin ed. p. 568*]

§68. FULFILLMENT OF DUTIES FROM THE VICARIATE. — a) The Cardinal Prefect will, when he deems it opportune, convene meetings of the council of men, preside over them, and will sign letters to the diocesan bishops concerning their respective affairs, as well as documents of aggregation and similar matters. He will also receive the number of parishes and families that have been enrolled in the register of the Pious Association from various regions of the world. He will either preside over the sacred gatherings and religious ceremonies that take place in the city through the Pious Association, or he will designate another priest to do so. Finally, it will be his duty to instruct his counselors on all matters pertaining to this Pious Society, especially those that can be carried out by them officially, or those that appear to present some difficulty.

b) Three individuals, one of whom is, for the time being, a secretary from the Congregation of Sacred Rites, whom the Cardinal Prefect has appointed, will diligently attend the meetings of the urban council, express their opinions, and inform the Prefect if they know of anything that would be beneficial to the Pious Society, and will diligently attend to all matters that pertain to its good. In addition to these, there is the priest who is elected by the Cardinal Prefect to serve as the Secretary of the Pious So-

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ciety. It is his duty to record the more important matters that arise in the meetings; to propose what he deems beneficial for the advancement of the cause; to diligently oversee the publication of writings by the Pious Association; and to communicate with the Prefect on all matters, both general and specific, so that they may receive the necessary approval. Furthermore, the secretary may enlist the assistance of another priest, approved by the Prefect, to fulfill his duties as secretary. It will therefore be his responsibility to draft letters to the bishops or others, and to respond to their letters, as instructed by the Cardinal Prefect, and to deliver them to the Secretary for subsequent signing. He will also be responsible for the chest or archive, in which he will keep writings, books, sacred images, documents of aggregation, and other similar items, for the use of the members, as determined by the council of the Pious Association. He will describe the expenses incurred by himself and report them to the Prefect, to whom he will also render an account.

III. OUTSIDE THE CITY. — a) The diocesan bishops will choose, as far as possible, a worthy priest from among their own clergy to serve as the Moderator, to encourage his zeal for the good of the Pious Association, so that he may apply himself with greater alacrity to all matters pertaining to it, and to diligently oversee everything. The elected Moderator will receive instruction from the diocesan Moderator on all matters pertaining to the good of the Pious Association.

b) It will be the duty of the diocesan Moderator to assist and advise the parochial Moderators with equal zeal and prudence.

[*Latin ed. p. 569*]

FROM THE VICARIATE BUILDINGS 569 members. He will frequently inquire from each of them about the number and names of families who have been enrolled in the Pious Association, so that he may instruct them further. Not only will he take care to record the names of the designated parishes in the registers, but he will also promptly send a copy of these to the City. c) The Rectors of the parishes will assume the office of Moderator among the flock entrusted to them, and will communicate with the diocesan Moderator about the affairs of their respective Associations, so that they may be assisted by his authority, counsel, and cooperation. They will report to the diocesan Moderator the number of families and members of the parish who wish to be enrolled in the Association, and will make this known publicly. Each year, on a designated day, they will strive to count the families of the parish and will endeavor to enroll new ones in the Association, if possible. Furthermore, in order that the worship and honor of the Holy Family of Nazareth may be fostered more, he will occasionally address his flock about the Pious Association, especially on the special feasts of the Lord, the Blessed Virgin, and St. Joseph, and most especially when the members' commitment is to be solemnly renewed, or even when

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a religious solemnity of the same Holy Family is to be celebrated in the parish church, which he may indicate and direct according to his prudent judgment. He will also, if he deems it appropriate, enlist the assistance of outstanding men and women of morals and piety to help with the work, who will devote themselves diligently to the advancement of the Association. d) Those chosen from both sexes, one among the men and one among the women, instructed by their parish priest, will strive with great zeal and prudence to promote the Pious Association, using the most effective means, such as prayers, exhortations, and examples of virtue. Furthermore, in all matters for which their services are requested by the parish priest in the Lord, they will be entirely obedient. IV. MATTERS TO BE OBSERVED BY THE ENROLLED FAMILIES. — a) In honor of the Nazareth Family, let everyone who has received its name strive to emulate some of the virtues of those whose most excellent example Jesus, Mary, and Joseph have given to the world, especially to those who seek their livelihood through manual labor. But above all, let them cultivate those virtues that pertain to the sanctity of the domestic society, such as mutual acts of charity, especially between spouses, the proper upbringing of children, and their obedience and respect towards their parents, peace and harmony in the home, and other similar virtues. Therefore, let them be entirely on guard against vices, especially those that bring a stain of infamy to a Christian, and against those that seem to cause particular injury to the Holy Family itself, such as impious words or obscenities, drunkenness, dissolute behavior, and the like. b) Let them approach the Sacraments of Penance and Eucharist with greater devotion.

[*Latin ed. p. 570*]

870 From the offices of the Vicariate, for the years to come, let these days be approached with piety, especially on the day when the consecration of families will be renewed. c) They will diligently ensure that the precepts of the Church are observed with gentleness, particularly among those from whose example others may derive good, such as the hearing of Holy Mass on festive days, abstinence, at the prescribed time, from prohibited foods, and other similar practices. d) They will take care that the feasts proper to the Pious Association are celebrated with particular honor, which have been enriched with a plenary indulgence by the Supreme Pontiff, especially the solemn day established in honor of the Holy Family, which day will be throughout the world on a Sunday within the Octave of Epiphany, on which occasion, unless it seems otherwise expedient to the parochial moderators in the Lord, the rite of renewal of consecration will be performed. e) They will strive to ensure that, at least once a day, common prayers are established before the image of the Holy Family, in which the recitation of the Rosary in honor of the Blessed Virgin is particularly recommended. f) The exercises of piety, which we have mentioned, are earnestly recom-

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mended to those who belong to the Pious Association, but in no way are they to burden the consciences of those. Given at Rome, from the offices of the Vicariate, on the Sunday within the Octave of Epiphany, on the 8th of January, 1893. L. M. CARD. YIC. President. C. MANCINI, Secretary.

[*Latin ed. p. 571*]

571 APPENDIX IV. EXHIBENS ACTA SEDIS APOST.; QUAE AUT IAMDIU EXARATASUNT, AUT QUAE TEMPORES VOLAVERUNT EPHEMERIDUM MODERATOREM. S. Poenitentiaria Ap. 7 Novembris 1888. — Dubia quoad absolutionem casuum reservatorum. Decreti 23 Iunii 1886 responsio ad 1. quae sic se habet: Attenta praxi S. Poenitentiariae, praesertim ab edita Constitutione Ep. s. m. Pii IX quae incipit Apostolicae Sedis, Negative, non videtur respicere casus specialiter reservatos Summo Pontifici sine censura; siquidem de his non agitur in Const. Apostolicae Sedis. Numquid ergo integra manet vetus doctrina theologorum dicentium de his absolvere posse episcopos vel delegatos eorum, vel, ut vult Castropalao, simplicem sacerdotem, quando poenitens Romam nequit petere, quin scribere necesse sit? 2. Quando indultum quinquennale Episcopi habent a S. Cong. de Prop. Fide complectens 14. numeros, n. 10. concedens facultatem absolvendi ab omnibus casibus, etiam specialiter reservatis Rom. Pontifici, excepto casu absolventis complicem, numquid illam possunt delegare in Gallia et in Europa pro casu saltem peculiari? ita ut non sit necessarium ut poenitens adeat Episcopum ipsum, quamvis in n. 11 indulti sit haec clausula: Communicandi has facultates in totum vel in partem, prout opus esse secundum eius conscientiam iudicaverit, sacerdotibus idoneis in conversione animarum laborantibus, in locis tantum ubi prohibetur exercitium catholicae religionis. Posito quod negative respondeatur, quid si poenitenti impossibile sit adire Episcopum tale indultum habentem? 4. Quando sedes episcopalis vacat, numquid Vicarius capitularis potest communicare facultates quinquennales Episcopo amoto vel defuncto concessas per indultum S. Poenitentiariae vel Congregationis de Prop. Fide? 5. Quando missionario occurrit poenitens censuris innodatus, et transiens obiter, ita ut missionarius non possit iterum poenitentem videre, numquid sufficit, posito casu urgentiori absolutionis, exigere a poenitente promissionem scribendi, tacito si vult nomine, ad S. Poen.

571 APPENDIX IV. EXHIBENS ACTA SEDIS APOST.; WHICH HAVE EITHER BEEN RECORDED FOR A LONG TIME, OR WHICH HAVE BEEN BROUGHT TO LIGHT BY THE PASSAGE OF TIME, FOR THE INFORMATION OF THE EDITOR OF THE PERIODICAL. S. Penitentiaria, 7th November, 1888. — Doubts concerning the absolution of reserved cases. Response to question 1 of the Decree of 23rd June, 1886, which reads as follows: Taking into account the practice of the Holy Penitentiary, especially that established by the aforementioned Encyclical of Pope Pius

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IX which begins "Apostolicae Sedis," the answer is negative. It does not seem to pertain to cases specifically reserved to the Supreme Pontiff without dispensation; provided that these cases are not mentioned in the Constitution "Apostolicae Sedis." Therefore, does the old doctrine of theologians remain valid, who state that bishops or their delegates, or, as Castropalao says, a simple priest, can absolve in such cases, when the penitent cannot go to Rome, but must write? 2. When a bishop has a five-year indulgence from the Sacred Congregation for the Propagation of the Faith, containing 14 articles, n. 10, granting the faculty to absolve from all cases, even those specifically reserved to the Roman Pontiff, except for the case of absolving a complice, can he delegate this power in France and in Europe for at least a particular case? In such a way that it is not necessary for the penitent to go to the bishop himself, although in n. 11 of the indulgence there is this clause: "To communicate these faculties in whole or in part, as he judges it necessary according to his conscience, to suitable priests engaged in the work of conversion, only in places where the practice of the Catholic religion is prohibited." Assuming that the answer is negative, what if it is impossible for the penitent to go to a bishop who has such an indulgence? 4. When the episcopal see is vacant, can the capitular vicar communicate the five-year faculties granted to the deceased or removed bishop by the indulgence of the Holy Penitentiary or the Congregation for the Propagation of the Faith? 5. When a missionary encounters a penitent burdened with censures, and he is passing by, so that the missionary cannot see the penitent again, is it sufficient, assuming an urgent case of absolution, to demand from the penitent a promise to write, even if it is without stating his name, to the Holy Penitentiary?

[*Latin ed. p. 572*]

572 APPENDIX IV. Within a month, and observing the prescribed conditions, is it necessary for the confessor himself to write [a letter]? 6. Is it, with a safe conscience, and to be put into practice, as some desire, due to the present danger, that letters not be opened by the civil authority, so that it is not required to direct a letter to the Supreme Pontiff in more urgent cases, or when the Pope cannot be reached? 7. Assuming that a letter to the Supreme Pontiff is not required, is a direct letter to the Bishop required, given this general danger, especially when it concerns the absolution of a penitent, which, even if maliciously discovered and revealed, can generate scandal? R. To 1. No. To 2, 3, and 4. The speaker (Missionary A.) should consult the Bishop, and, if necessary, the Bishop should appeal to the Most Holy Congregation [of the Holy Office]. To 5. Yes. To 6. No, since names and surnames must be omitted in prayers. To 7. See 6. S. C. Indulg. [Sacred Congregation of Indulgences], December 15, 1841 — Mechlin. A doubt concerning the altar for gaining an indulgence. If a local indulgence for an altar is granted by the Holy See, and no mention is made, either in the

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indulgence bull or in a rescript, of whether the altar is fixed or portable, can the altar be considered privileged even if it is portable? R. No. S. C. Indulg. [Sacred Congregation of Indulgences], January 31, 1848 — Toulouse. — Concerning the indulgence gained through the Sacrifice of the Mass. Can the Sacrifice of the Mass be offered for one person and the indulgence applied to another, when the Sacrifice of the Mass is required for gaining an indulgence? R. Communicate the opinion of the Consultor to the speaker. — Opinion of the Consultor. The most learned Father John Cavalieri raises the same question, namely: can the Indulgence and the Sacrifice be separated? He answers: "The decision depends on the words of the indulgence; if it says: 'Whoever offers a Mass for the deceased in such an altar, will release the soul of that deceased,' then the Sacrifice and the Indulgence cannot be separated, but both must be applied for the same deceased; if, however, in the indulgence..."

[*Latin ed. p. 573*]

APPENDIX IV. 573: The application of the Indulgence alone suffices to liberate the soul, and the Sacrifice can be applied to anyone; however, if the founder or the one offering the stipend imposes the obligation of celebrating in a privileged altar, then the aforementioned division does not apply, because by imposing such an obligation, it is also considered that he has intended the application of the Indulgence. It is different if the priest has the obligation to celebrate, but not in a privileged altar; in this case, he fulfills his obligation by applying the Sacrifice, and he is free regarding the application of the Indulgence, provided that he celebrates in an altar to which the privilege of applying the Mass does not pertain. This solution also pleases me, for the Indulgence, even for the deceased, is a gift drawn from the Church's treasury, which consists of the merits of Christ, the Blessed Virgin Mary, and other Saints; whereas, works are only a condition, without which the Indulgence does not produce its effect; therefore, the Indulgence is one thing, and a work is another. Furthermore, if the application of the Indulgence, granted only for the deceased, were necessarily joined with the application of the Sacrifice, then the Sacrifice and the Indulgence would be one and the same thing; therefore, the Sacrifice would not be merely a work, nor would the Indulgence be drawn from the Church's treasury, but from the infinite value of that same Sacrifice, which certainly does not belong to the power of the Church, but to the will of God, applied in a finite manner; but the Sacrifice is only a work, and the Indulgence is not derived from the value, or fruit, of the Sacrifice, therefore they are not one and the same, and consequently, in this hypothesis, the priest can offer the Sacrifice for one person and apply the Indulgence for another. These are the things that I have considered worthy of being presented to your wise judgment, Eminent Fathers. S. C. S. Office, January 1780 – Vic. Ap. Sutchuen. Concerning the plenary Indulgence at

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the hour of death. According to the Indulgences granted by the Holy See, all missionaries have, through a decree, the faculty of granting the plenary Indulgence at the hour of death to those who are constituted [in extremis]. However, it is rarely the case that the faithful are precisely constituted in extremis; therefore, it happens that others are granted this Indulgence when there is only a danger of death, even though it does not seem to be imminent; and others, according to the strict meaning of the words, apply it only when the agony seems to be near; and then, when they do not observe such an imminent danger of death, either through the means of medals, with which, by the authority of the Holy See, this kind of Indulgence is attached, or through the invocation of the Most Holy Name of Jesus, as has been granted.

[*Latin ed. p. 574*]

574 APPENDIX IV. Many Popes have warned the faithful to ensure that the conditions are met, so that they may deserve to receive this benefit. If His Holiness deems it advisable to adhere to a particular agreement, all those present will submit to the judgment of the Holy See. R. — Regarding the matter debated among missionaries concerning the time for granting the plenary Indulgence to those in the article of death, the Sacred Congregation decided that the circumstances of time are sufficient to allow it to be properly conferred, provided that the sick person is clearly seen to be nearing death. It is not necessary to wait for the moment when the sick person is barely conscious, as they would then be unable to fully express the sentiments prescribed by the Roman Ritual, in order to more abundantly receive the benefits of such a sacrament as the Extreme Unction. Therefore, it is the duty of the missionaries, after administering the sacramental unction to the sick person, to encourage them to consider the things read in the same Ritual, and then to communicate to them this very great benefit of plenary remission; and this should be done especially when it is evident that they will not be returning. Sacred Congregation of the Holy Office, January 13, 1611 — Concerning the administration of Extreme Unction with oil, blessed by the bishop but not consecrated. The Most Holy Father (Paul V) in the general congregation before him, after a careful examination and consideration of the following proposition, namely, that the Sacrament of Extreme Unction can validly be administered with oil blessed by the bishop but not consecrated, after hearing the votes of the Cardinals, declared that the said proposition was rash and very close to error. Sacred Congregation of the Holy Office, June 23, 1886 — Doubts regarding the absolution of reserved sins, etc. 1. Can it still be safely maintained that the power to grant absolution for sins and censures, even those specially reserved to the Pope, devolves upon the Bishop or any approved priest, when the penitent is unable to personally approach the Holy See? 2. To the extent that the answer is negative: Is it necessary, at least by letter to the Eminence, the

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Cardinal Penitentiary, for all cases reserved to the Pope, unless the Bishop has a special indult, to obtain the power to absolve, except in the article of death? In reply to 1. Considering the practice of the Sacred Penitentiary, especially since the publication of the Apostolic Constitution *sac. mem.* of Pope Pius IX, which begins with the words "Apostolicae Sedis," the answer is negative.

[*Latin ed. p. 575*]

APPENDIX IV. § 75. Ad 2. Affirmative, that in truly urgent cases, in which absolution cannot be deferred without the danger of grave scandal or infamy, concerning which the conscience of confessors is burdened, absolution can be granted, even with prescribed penances, by dispensations, even those reserved to the Holy See in a special manner, under pain of incurring those same penances again, unless, at least, recourse is made to the Holy See within one month, by letter and through the medium of the confessor. Having heard the words, the Most Holy [Father] approved. Sacred Congregation of the Holy Office, March 23, 1656. Various doubts concerning the administration of Baptism, etc. It is asked (by missionaries in Sinis) whether all the sacramental rites in the Baptism of adult women should be administered. It is asked again whether it suffices, if women request it, to administer only the Sacrament of Extreme Unction. It is asked again, whether, even if they request it, it should be denied, when it is prudently foreseen that this will bring inconvenience and danger to the entire Christian faith. The reason for doubting is the incredible modesty of women in Sinis, their zeal, and their praiseworthy flight from all contact, not only with men, but even with their sight; in this matter, unless great caution is exercised by the missionaries, a great scandal could be given in Sinis, and the entire Christian faith could be exposed to evident danger. Response: From a grave necessity, certain sacramental rites in the Baptism of women can be omitted, and even the Sacrament of Extreme Unction itself can be omitted. Sacred Congregation of the Holy Office, May 10th. (703. Concerning the administration of the Eucharist and Extreme Unction. Whether the Eucharist or Extreme Unction should be administered to dying adults, whom we sometimes believe to be capable of Baptism, but not of the Eucharist and other Sacraments. Response: The Eucharist should not be administered to a neophyte who is dying, unless he discerns spiritual food from bodily food, by knowing and believing in the Sacred Host the presence of Christ the Lord. Likewise, the Sacrament of Extreme Unction should not be administered to a neophyte who is dying, whom the missionary believes to be capable of Baptism, unless he also has some intention of receiving the Holy Unction for the benefit of his soul, in the

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time of death, in an orderly manner.

[*Latin ed. p. 576*]

576 APPENDIX IV. Sacra Congregatio de Propaganda Fide — Congregationis Provinciae pro Sinis. 27 Septembris, 1843. Quaestiones referentes ad indulgentiam in applicatione Missae de Requiem.

1. An per facultatem liberandi per celebrationem Missae de Requiem animam a poenis purgatorii intelligatur liberatio totalis, vel solum indulgentia plenaria?

2. An sacerdos celebrans Missam de Requiem in die feria, non impedita, possit vi facultatis obtentae liberare animam secundum suam intentionem, et vi privilegii altaris aliis animabus indulgentiam applicare?

R. Ad 1. Ecclesia, per altare privilegiatum, intelligit, per Missam celebratam ad praedictum altare, vel ab eo qui eodem privilegio personaliter fruatur, pro anima cuiuscumque christifidelis, quae Deo in charitate coniuncta ab hac luce migraverit, animam ipsam de thesauro Ecclesiae per modum suffragii indulgentiam consequi, ita ut Dominus noster Iesus Christus, suffragantibus meritis, a poenis purgatorii liberetur.

R. Ad 2. Negative, quia est idem privilegium.

Sacra Congregatio de Propaganda Fide — Congregationis Provinciae pro Sinis. 21 Septembris, 1843 — Vicarius Apostolicus Sutchuen.

De unctione renum in extrema unctione.

Seni, valde debiles, et infirmi, et qui febri vel simili morbo laborantes, qui praesumuntur morituri, antequam praesentem habere possint missionarium, quasi in extremo morbo ungi possunt, ut rescripsit Sacra Congregatio anno 1801. Saepius vero in conventu fidelium, suscepto Viatico et Missa finita, hic ungi solent huiusmodi seni et infirmi, nec non alii quidam periculosius aegrotantes.

Quando autem pro renum unctione peragenda in viris laxantur et elevantur vestes, statim multi, maxime mulieres, rubore suffunduntur et velociter aufugiunt propter mores gentis.

Si igitur Sacra Congregationi probatum fuerit, dignetur, obsecro, a Sanctissimis Dominis obtinere ut renum unctio omittatur non solum quando infirmus commodissime moveri non potest, sicut vult Rituale Romanum, sed etiam quando Extrema Unctio administratur in coetu fidelium.

R. Affirmative, facto verbo cum SSmmo — SSmus approbavit.

[*Latin ed. p. 577*]

APPENDIX 577 IV. From the Decree of the Sacred Congregation for the Propagation of the Faith, September 12, 1645. Concerning the administration of Extreme Unction to women. Whether, in China, the ministers of the Gospel can, for the present time at least... administer the Sacrament of Extreme Unction to women. And the reason for doubting is because the

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Chinese are led by great zeal for their wives, daughters, and other women, and they would take offense from such actions. R. Sacramental rites should be used in the Baptism of women, and Extreme Unction should be conferred upon women; nor is the motive expressed in the doubt sufficient, so that missionaries, as far as it is in their power, should abstain from these things. Therefore, it is necessary to introduce and observe such wholesome rites and ceremonies; and the missionaries should administer them with such circumspection, and instruct the people with such documents, so that they may be freed from all suspicion of impropriety. Sacred Congregation for the Propagation of the Faith, January 18, 1793. — Vicariate Apostolic of Tonkin, Occidental. Concerning ordination without letters of dispensation. In the year 1790, a certain young man from Gallus, born in the diocese of Nannetensi, entered Tonkin, who seems suitable to receive the Orders, and intends to dedicate himself to the Tonkin Mission. The question is raised, whether letters of dispensation can be obtained from his native diocese; it is asked whether it is permissible for Vicars Apostolic to ordain those whose Ordinaries are so distant that recourse to them is very difficult, especially, after those who are to be ordained have resided for at least three years under the jurisdiction of the Vicars Apostolic, and have been supported at their expense, as if they were of their own family? R. It is not permissible, but it may be permitted to the Vicar Apostolic of Tonkin, in the case of the young man from Gallus, born in the diocese of Nannetensi, considering the circumstances, to enroll him in the clerical militia, and to promote him to the Orders without the letters of dispensation of his Ordinary, if no impediment exists, and as long as he is found to be suitable. — Most Holy approved. Sacred Congregation of the Holy Office, April 10, 1861. — Vicariate Apostolic of Tchely, Meridional-Oriental. Concerning the administration of Extreme Unction to neophytes, etc. Whether Extreme Unction should be given to those neophytes who, being baptized at the point of death, are entirely uninstructed, and are exhausted by the force of the disease, and cannot be instructed. Acts, Volume XXV, page C CXO VIII, 37.

[*Latin ed. p. 578*]

§78 APPENDIX IV. R. The Sacrament of Extreme Unction ought not to be conferred upon dying neophytes whom a missionary believes capable of receiving Baptism, unless they at least have some intention of receiving the Sacred Unction for the benefit of their soul, in order, at the time of death. S. C. S. Officii, 28 November 1668. — Concerning heretics with regard to the sacred orders. Whether alumni of Pontifical Colleges, who are either converted from heresy, or are the sons of heretics, and therefore irregular, and who, with this irregularity (which should be apparent), have been and are promoted to the sacred orders, have been and are being legitimately and canonically promoted; whether they truly require and do require a

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dispensation from the aforementioned irregularity. R. The aforementioned alumni have required and will require a dispensation with regard to the aforementioned irregularity. Those who petition for the relaxation of the suspension. S. C. S. Off. 9 April 1704. Concerning priests to be admitted to the exercise of the orders, after having abjured schism. With regard to the practice of admitting priests and deacons (returning from schism to the Catholic Church) to the exercise of their orders after they have embraced the Catholic faith, the following must be observed. If a priest absolutely states that he was ordained with the imposition of hands and the utterance of the words, and nothing else obstructs, then the missionary, after having dispensed with him regarding the irregularity and absolved him from excommunication, may admit him to the exercise of his orders according to the approved and purified rite in which he was ordained. But if that priest ingenuously confesses that he does not remember the matter and form of his Ordination, or doubts one or the other, he cannot be admitted to the exercise of his orders until he is reordained under condition. Finally, if he absolutely asserts that the imposition of hands or the utterance of the form, or both, were omitted, he must be absolutely reordained before he is admitted to the exercise of his orders.

[*Latin ed. p. 579*]

APPENDIX 579 IV. Sacred Congregation of the Holy Office, February 12, 1851. — Vicariate Apostolic of Korea. Concerning the sacred ordination of a man, while his wife is living. Among the students who are currently being educated, one is thirty-six years of age and is married, but for many years he and his wife have been living in continence, both with a simple vow of chastity; they have no children. He requested, with tears, that he be given to the Mission; I readily admitted him. I ask that, after he has been sufficiently instructed, it may be permissible, while his wife is living, and, since there is no monastery in Korea, for the remainder of his life, to promote the man to the Priesthood with a simple vow of chastity. That man is approved in the faith, and if he were to become a priest, he would be of great usefulness. R. It is not advisable. Sacred Congregation of the Holy Office, December 4, 1890. — Concerning irregularities, with regard to heretics, etc. Heretics converted to the Catholic faith, and the children of heretics who persist in heresy or who have died in heresy, are irregular in the first and second degrees through the paternal line, and only in the first degree through the maternal line, and therefore require a dispensation in order to be promoted to Tonsure and Orders. Sacred Congregation of the Holy Office, August 19, 1851. — Vicariate Apostolic of Cochin. Doubts concerning the conferral of Orders. According to Canon Law, in the Ordination of a Priest and a Deacon, the imposition of hands must be performed with physical contact; if this has been omitted, it should be cautiously supplied, because it was omitted through error, but it is doubted: 1. Whether, if the

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imposition of hands has been performed without physical contact, it must be supplemented with the imposition of hands with physical contact? 2. If so, whether public rumor and the bad reputation that would result for the ordaining prelate, especially in these regions, would be a sufficient reason to abstain from repeating the imposition of hands with physical contact? 3. If physical contact must be supplied, whether the words must be repeated which are simultaneously pronounced by the Bishop with the imposition of hands, especially in the Ordination of a Deacon, in which the words "Receive the Holy Spirit," etc., seem to many to be the *forma* of the Sacrament?

[*Latin ed. p. 580*]

§80 APPENDIX IV. 4. Whether that corporal touch can be supplied privately, when such Orders are not conferred? R. To the first question, Affirmative. To the second, Negative. To the third, Affirmative. To the fourth, Affirmative, and secretly during the action of the Mass, and also outside the times of the general Ordination. 5. C. S. of the Office of March 13, 1669. — Doubts concerning the consecration of a Bishop. 1. Whether a Bishop of the Greek rite, consecrated by a Bishop who is both schismatic and heretic, is validly consecrated. 2. Whether he is validly consecrated by only one Bishop. 3. Whether in either case he must be consecrated again without condition, or whether he must be consecrated under condition. R. To the first question, He is validly, but illicitly, consecrated, and therefore he needs a relaxation concerning the suspension, and a dispensation concerning the irregularity. To the second and third questions, He does not need to be consecrated again under condition, but the prescription of the Brief *Sacramenta* of Pope Pius IV, dated August 11, 1562, should be followed (1).

(1) In the aforementioned Brief it is written: "Spain has reported to us that in the Oriental Indies and the Kingdom of New Spain, due to the recent conversion of those peoples to the orthodox faith, very few episcopal sees are yet established in such a vast expanse of land; hence, after the election of Prelates for these vacant sees, a sufficient number of Bishops cannot be gathered within the time required to confer the sacrament of consecration upon them. Wherefore, concerning the consecration of Bishops, which the aforementioned Philip has opportunely sought from us, we, considering the justness of the matter, humbly supplicate the Apostolic See, and, having considered all and each of the Venerable Archbishops and Bishops established in the aforementioned Indies, who have thus far performed the aforementioned office, without the due number of Prelates being present, but otherwise rightly, absolve them from this excess, and from all other ecclesiastical penalties, by the authority of these presents; and, concerning any irregularity that they may have incurred therefrom, and that they may freely and lawfully exercise the aforementioned office, and the priestly orders they have received, and in the pontifical office, and in the ministry of

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the altar, and may preside over their Metropolitan and Cathedral Churches, we grant a special dispensation by the grace of this favor, inclined as we are to such supplications; and to all and each of those who may be canonically elected and assumed to the Cathedral and Metropolitan Churches in the aforementioned Indies, in the event of their vacation, we grant that, from now on, for all future times, after their election and assumption, without any other canonical impediment, they may freely receive the grace and communion of the Apostolic See from any Catholic prelate they may choose, with the assistance of two or three constituted in ecclesiastical dignity, or Canons of the Cathedral or Metropolitan Churches; and we grant to the same prelate full and free authority and power to confer this sacrament, by the aforementioned authority. Notwithstanding, etc."

[*Latin ed. p. 581*]

APPENDIX IV. 581 S. C. S. Officii 20 Ianuarii 1880. — Vic. Ap. Sutchuen. Concerning betrothals which take place in China. 1. It is the common custom among the Chinese that parents, for their children in tender age, still not of mature years, and before the use of reason, enter into betrothals; and such betrothals, by the force of civil laws, are so firm that they can scarcely ever be dissolved before a judge; so that if a girl, now grown, were to object to such a betrothal, she would ordinarily not be heard, but would be compelled to marry. Can such betrothals be tolerated among Christians? It is certain that they have been tolerated from ancient times until now, and I have never heard of them being prohibited in other provinces of this Empire. However, a few years ago, we discovered that disputes and contentions arose among Christians, who, acting according to custom, wished to compel, even before a judge, such betrothed individuals, in order to fulfill this alleged promise through marriage. Therefore, I forbade Christian parents from entering into such betrothals for their children in this manner. I permitted only that they promise to enter into such betrothals in the future, which would have effect only when both betrothed parties, having attained the years of discretion, knowingly and willingly consent to it. However, with regard to betrothals already entered into contrary to the rules of the Church, I have not dared to order their explicit and formal rescission. For there are many among the Christians who, before their conversion to the faith, entered into betrothals, and, indeed, at least commonly speaking, would be badly received by the pagans with whom they entered into these betrothals, if they were to propose such a rescission. Nevertheless, I have stipulated two things: 1. That they should never presume to compel unwilling individuals to marry by virtue of previous betrothals. — 2. That they should attempt a dissolution, or, if they cannot obtain it, at the very least promise that in the future, they will never give their sons or daughters in marriage, unless there is a place for dispensation, and they have obtained it. 2. From these betrothals made in childhood, another abuse has arisen,

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namely: it often happens that parents give the promised girl to be married and raised by the parents of the boy, with whom they have entered into a contract; so that, from the age of two or three years until the time of marriage, she lives under the same roof with her future husband. And from this, sometimes the worst scandals arise. To counteract this great evil, I forbade Christians from bringing such a bride into their own home before the day of the marriage, unless there was a serious and urgent reason, the gravity of which only a designated missionary judge could determine. A reason is considered serious if the girl's parents are unable to nourish her or to instruct her in the Christian faith, and

[*Latin ed. p. 582*]

582 APPENDIX IV. Both parents may do so. Likewise, when betrothals have been contracted during the time of paganism, and the girl remains under the care and instruction of non-believers, it is permitted, and indeed we exhort Christians, to receive such girls into their homes during their childhood, commiting their chastity to the care of charity and to God. In both cases, the condition is absolute, that they be joined in marriage at the time they become adults, provided, however, that both betrothed parties consent.

R. To 1. Nothing has been decreed by the Apostolic Vicar which is not wise, not prudent, not pious. Betrothals, whether contracted between children or between an adult and a child, are considered void, so that they do not constitute an impediment to public decency, as is established by canon law. Those betrothals which are celebrated between those who are not yet of age, although by canon law they are considered valid and to impose an obligation, are nevertheless established by the same law, due to the weakness of judgment, that they may be dissolved after puberty; nor is either party obliged to wait for the other, but may, and indeed should, dissolve the betrothal immediately if they do not wish to proceed with the marriage, otherwise they will not be heard afterwards. The Apostolic Vicar, knowing these things perfectly well, wisely sought to abolish the unjust custom of the country, whereby fathers, having sworn, are compelled to fulfill, whether they will or not, the betrothals of their children in childhood; he forbade Christian parents from entering into such betrothals, or, if permitted, that they should not be valid or have any effect, unless the children, having reached the age of discretion, freely consent to them.

S.G. observed that the Apostolic Vicar also sought to remedy betrothals already contracted by parents while still non-believers, in such a way that he could not have devised anything more prudent, considering the circumstances of the place, or anything more effective for protecting the freedom of the children. Therefore, S.G. followed the Apostolic Vicar's reasoning, whether it concerned attempting to dissolve betrothals, or never compelling children against their will to marry; and concerning waiting for

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a dispensation from the Apostolic See, which will never be granted unless the parties wish to marry, even if all other circumstances concur.

R. To 2. These counsels of the Apostolic Vicar were equally praiseworthy, and it is fitting that the primary precept should be that brides should not come to the home of the bridegroom unmarried, so that the way to scandal may be closed, and so that the countless sins that are impossible to avoid between betrothed parties who live together for a long time may be prevented. It did not seem unreasonable to S.G. that this prohibition should be exceeded in the two cases mentioned, when it is known how great a danger the necessity of sustenance poses to chastity, and how deeply ingrained a wrong education is in the mind, which is rarely eradicated. Nevertheless, S.G. suggested two things.

[*Latin ed. p. 583*]

APPENDIX IV. 83. Regarding missionaries who are to be present when young women are betrothed and permitted to be supported in the father-in-law's house: Firstly, they will never consent to this, unless they have seen that each of these young women can be supported, or otherwise assisted, by someone else, and that this is done with the help and cooperation of the father-in-law; secondly, if they have seen that these young women can only be educated and supported in the father-in-law's house, they will nevertheless do this, so that the opportunity for sin is completely removed. Indeed, this [practice], because it is inherently sinful, is never permitted, even for the sake of avoiding a greater evil: these two points were therefore intended to be impressed upon the same missionaries by the Sacred Congregation. From the Instruction of the Sacred Congregation of the Holy Office, September 16, 1824. – Regarding a letter to the Bishop of Quebec, concerning doubts regarding marriage. Doubt 2. Paul, a Christian widower, married Balbina, who is an unbeliever, with the intention of having her received among the Christians, so that, with him, she might enter into a Christian marriage. Meanwhile, Demetrius, Paul's son from a previous marriage, declares that he has had relations with Balbina. The question is asked whether such a union with an unbelieving woman results in an impediment of affinity in the first degree. Doubt 4. A faithful man married a woman who is an unbeliever, and he had previously known a relative of hers in the second degree who was also an unbeliever. The question is asked whether, after his wife has embraced the Christian faith, she requires a dispensation regarding the second degree of affinity, in order to be able to enter into a sacramental marriage with him. Doubt 6. In the extraordinary faculties which the Supreme Pontiff often grants to Bishops or missionaries working in distant lands, it is stated (article 6) that dispensations can be granted regarding past marriages, even in the second degree of affinity and consanguinity, provided that this does not affect the first degree, with those who are converted from heresy or infidelity to the Catholic faith.

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Regarding this, the question is asked whether, by a past marriage, is meant a union that had existed between a Catholic man and a heretical woman, or between a faithful man and an unbelieving woman, or vice versa, so that the aforementioned faculty can be used when only one of the contracting parties has returned from heresy or infidelity to the Catholic faith. Response. Regarding 2, two things must be distinguished: 1. either Paul married Balbina, who is an unbeliever, with a prior Apostolic dispensation regarding the disparity of worship, or without an Apostolic dispensation; 2. or Demetrius had relations with...

[*Latin ed. p. 584*]

584 APPENDIX IV. Concerning the case of Paul and Balbina, whether before or after Paul received her as his wife. If Paul took Balbina as his wife with a prior Apostolic dispensation, even if Demetrius had previously been joined to the same Balbina, then the marriage is to be considered valid; for the impediment of affinity, especially when arising from an illicit union, is not to be considered as an impediment when it is not regarded as one of divine or natural law, but only of ecclesiastical law, because the infidels are not affected by the mind of the Church, since they are not subject to the Church, and when the Church, by granting a dispensation concerning disparity of cult, as when contracting with an infidel, dispenses, it is understood to dispense also from those impediments from which the infidel party is exempt, so that this exemption, because of the individual contract, remains communicated to the other party. Consequently, such a marriage cannot be repeated after Balbina's conversion to the faith. For once valid, it always remains in its validity; nor would it be annulled by a subsequent union that Demetrius might have had with Balbina, because the conjugal bond would not be dissolved by that, since it is indissoluble. Therefore, in this first case, let missionaries take care not to admit those spouses who, desiring to contract marriage in a Christian manner, should present themselves for a new consent; rather, let them advise them of the validity of the previous marriage, so that they may know that, through the sacred ceremonies of the marriage blessing, they are not entering into a new marriage, but are only having sanctified a marriage that they have already entered into and which is firm and established. The contrary, however, must be said in the second case, namely, if Paul contracted with Balbina without an Apostolic dispensation concerning disparity of cult. Then, since there would be no marriage at all, and it would be as if no contract had been made, Balbina herself, after baptism, would be bound by the impediment of affinity. It does not matter that Balbina had been carnally known by Demetrius while still living in infidelity, and therefore was not subject to an ecclesiastical impediment. For affinity must be distinguished in itself and physically considered from the impediment of affinity. Furthermore, affinity is also contracted by infidels, because it is true even among infidels that

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a man and a woman, through carnal union, become one flesh. Therefore, as is stated in chapter 35, question 10, of the book on Fraternity: "If they are one flesh, how can one of them be related to one, unless he is related to the other?" Therefore, since Paul is the father and related to Demetrius, he must also be related to Balbina, and since Balbina, having become one flesh with Demetrius, is related to Paul. The only difference is that affinity does not create an ecclesiastical impediment for infidels, but it does create an impediment for the faithful. Therefore, since baptism does not remove from Balbina the affinity that she has already physically contracted with Paul, this very affinity, which is fundamentally inherent in her, which was not an impediment to her when she was an infidel, becomes an impediment after baptism, by which she is subject to the Church, and to its laws.

[*Latin ed. p. 585*]

APPENDIX IV. 585 Therefore, subject to the laws; but the impediment certainly exists in the first degree, and indeed in a direct line, because in such a degree and line, Paul, the father, and Demetrius, the son, are related, and the degrees of affinity are reckoned from the degrees of consanguinity. Regarding 4. From what has been said in the response to question 2, the response to question 4 is clear. In both cases, the impediment of affinity arising from an illicit union is discussed, except that there the discussion concerned a certain passive affinity of Paul, the faithful, which he had contracted with Balbina, not through his own action, but through the action of another, namely, Demetrius; whereas here, the discussion concerns an active affinity, of which the Catholic man himself is the author, who wishes to marry a woman whose female relative he has carnally known in the second degree. Therefore, it must be said that the impediment arises, on the part of the man, and indeed in the second degree, because consanguinity and affinity proceed and are calculated in the same degree, and likewise, the woman is also subject to the same, when she has embraced the Catholic faith. Therefore, if a marriage has been contracted by a faithful man with an unbeliever, an Apostolic dispensation regarding disparity of cult is required, and it is to be considered valid; and therefore, after the woman's baptism, no new consent is required; but if it has begun without such a dispensation, because there would have been no impediment at all, the pre-existing impediment of affinity would affect the woman after the reception of baptism, so that she too would require a dispensation to validly and sacramentally contract marriage. Regarding 6. It is clear from past marriages, in which Bishops or missionaries can use the faculty delegated to them by the Apostolic See to dispense, that not all unions, even those of a fornicatory nature, are included, but only those which, according to the customs of regions, or of unbelievers or heretics, have the form and appearance of marriage, and are considered as legitimate marriages, which, however, are invalid due to the ecclesiastical impediment of the second degree of

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affinity and consanguinity. Therefore, marriages are understood, notwithstanding this impediment, to be null and void by those who are subject to the laws of the Church. Such are the marriages: 1. those begun between the faithful and unbelievers without an Apostolic dispensation regarding disparity of cult; 2. those between Catholics and heretics; 3. finally, those between heretics, both with unbelievers, or even among themselves, since they too are subject to the laws of the Church. Marriages between the two parties who are unbelievers are not included. For those who are not bound by the laws of the Church, as are the unbelievers, have validly contracted marriage; and they do not need, nor after they have been converted to the faith, a dispensation to remain in the contracted marriage, because what was valid at the beginning does not require revalidation.

[*Latin ed. p. 586*]

586 APPENDIX IV. Primum, et secundum dumtaxat casum ponit auctor dubii, tertium nec attingit; atque in illis duobus casibus, quia una pars iam catholicam religionem profitetur, et ideo, per alterius conversionem, ambo coniuges iam sunt catholici, cum his dispensare licite posse non ambigit, sed tantum quaerit an ad huiusmodi solummodo casus extendatur dispensandi facultas? Hinc patet quod ad quaestionis elucidationem, etiam de tertio casu habenda est ratio, quaerendo nimirum an ad hunc quoque casum facultas extendatur, ita ut ea uti liceat, tam si una tantum, quam si utraque pars convertatur ad fidem. Respondetur autem, extendi. Et re quidem vera, si convertitur vel infidelis vel haeretica, remanente altera in sua haeresi, habetur casus dubii praecedentis, scilicet matrimonii mixti catholicos inter et haereticos. Sicuti igitur S. Sedes interdum dispensat etiam in huiusmodi matrimoniis ab impedimento affinitatis et consanguinitatis, sic et illi dispensare possunt, quibus concessa est facultas dispensandi cum iis qui ab haeresi vel infidelitate convertuntur ad fidem catholicam. Quod si convertitur pars haeretica, perseverante altera in infidelitate, iam est casus matrimonii catholicorum cum infidelibus, ac tunc quae graves adessent causae dispensandi super disparitate cultus, eadem et gravia evaderent motiva dispensandi quoque super affinitatis impedimento; si vero convertitur uterque coniux, iam nec locus remanet dubitandi de facultatis extensione, ad effectum ut cum iis licite dispensari possit. S. C. S. Officii 20 Septembris 1854. — Vic. Ap. Yun-nan. Dubium de matrimonio. In istis Missionibus saepe evenit ut minor fratris sui maioris defuncti uxorem ducat et postea convertatur. Difficillime separari possunt propter prolem iam susceptam, vel periculum ne avertantur a fide; ipsorum matrimonium invalidum tamen esse videtur, utpote omnino a lege civili prohibitum, etiam sub poena mortis. Verum post Baptismum, ad convalidandum eorum matrimonium, satisne est, ut tantummodo suum renovent consensum? R. Praevia dispensatione ab impedimentis disparitatis cultus et primi affinitatis gradus per facultates

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quibus missionarii gaudent, consensum esse renovandum; quod si superventura mala deprehendantur, relinquendus esse in bona fide.

[*Latin ed. p. 587*]

APPENDIX IV. 587. Decree of the Holy Congregation, August 24, 1686, concerning intervals in ordination. The following decree (of the Synod of Meath in Ireland) states that no one, whether secular or regular, shall be promoted to the sacred Orders in this diocese, without observing the prescribed intervals, nor without the diligent examination of the Ordinary, unless the utility or necessity of the Church suggests otherwise to the Bishop; and this judgment, even concerning the Regular clergy, does not pertain to the Superiors Regular, but to the Ordinary, and must be reformed concerning those who possess a privilege granted after the Council. And in all other respects, the decrees of the following tenor must be given and observed:

I. On June 30, 1597, the Holy Congregation, etc., declared that the remission of intervals, even concerning the Regular clergy, from reasons expressly stated by the Council (of Trent), pertains to the Bishop ordaining; however, in this matter, the Bishop must present the reasons for judgment and testimony to the Superior Regular who is ordaining.

II. On September 30, 1609, the Holy Congregation, etc., repeatedly declared that the remission of intervals from reasons expressly stated by the Council pertains to the Bishop ordaining, even concerning the Regular clergy receiving Orders from him, but not to the Superiors Regular; however, the Bishop must give his faith and present testimony to the Superior Regular concerning the reasons for the remission.

Secret Consistory of the Sacred Congregation of the Holy Office, December 16, 1826, at Gandavensis. Concerning the keeping of the holy oil in private homes. Priests exercising the care of souls, for their convenience, retain the holy oil for the sick in their own homes. Can they, considering the custom, lawfully retain this practice?

Answer: Negatively. The Roman Ritual must be observed, except in the case of great distance from the church; in which case, it must be kept, even at home, with due regard to honest, decent, and safe custody.

[*Latin ed. p. 588*]

§88 FROM THE HOLY CONGREGATION OF THE COUNCIL OF AYACUCHO, CONCERNING MARRIAGE, dated May 21, 1892, Session 24, Chapter 18, On Reforms. SUMMARY OF THE CASE. Maria Grimanesa Samanes, born in Andahuaylas, in the diocese of Ayacucho, who had barely reached her seventeenth year, set out, along with her aunts Emilia and Emanuela Ocampo, to the estate of Huambo, as a place of refuge, due to the disturbances caused by the war that afflicted Peru in the year 1882. There, under the care of those aunts, negotiations began shortly thereafter

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concerning the marriage to be arranged with Dionysio Garcia Leon, from the parish of Huanearay. And after brief discussions, the marriage between Dionysio and Grimanesa was celebrated on August 17, 1882, in the chapel of the village of Pacobamba, within the boundaries of the parish of Huancarama, before the parish priest of that place. But as the bridal party was leaving the church after the completion of the rites, they were unexpectedly confronted by a young man, Rosentus Semanes, the father of the bride, inflamed with anger and armed. And as we hear from the witness, John Poro, he had already shown himself to be offended by this marital union. When those present, and especially the groom and the parish priest, were seized with fear and fell to their knees, Rosentus, vehemently disapproving of what had been done, took his daughter to the estate commonly called Laguna, and then to the farm, where he left her there for a time, to be disciplined. Shortly afterward, Rosentus began to take action before the ecclesiastical court of Ayacucho, in order that the aforementioned marriage might be declared null. In this matter, in the process that was initiated, certain acts were carried out without the intervention of a defender of the marriage, and with an imperfect investigation, as is reported in...

[*Latin ed. p. 589*]

AYACUCHO. The aforementioned Grimanesa, having not yet been brought to a decision, because of the matter of Crimanesa. Desiring to serve God more perfectly, and having been admitted as a novice to the congregation of nuns of the Good Shepherd, she has remained, with the approval of her superiors, since January 2, 1888, and has completed her novitiate. Soon afterwards, the same Grimanesa, having taken vows, petitioned the Sacred Congregation for the Oriental Churches, imploring that, after examining the facts, a remedy be provided, either through a declaration of nullity of the bond based on the clandestine marriage, or through a dispensation concerning the valid but unconsummated marriage.

Synopsis of the Argument. The woman's advocate, after noting that the defects in the proceedings do not affect the substance of the case, and therefore he fully trusts in the benevolence of the Most Reverend Prelates for a remedy, in the first part of his argument, recalls the decree of the Council of Trent, Session 24, chapter 13, concerning reforms, marriages, which are entirely void and null, unless they are entered into before one's own parish priest or another priest with the license of the parish priest or Ordinary. Given this, and since the aforementioned law of Trent is fully in force in the diocese of Ayacucho, the advocate argues that the marriage between Dionysius and Grimanesa is subject to nullity, since it was contracted before neither of their respective parish priests, as both the woman and the man claim to demonstrate.

The advocate observes that the witnesses completely corroborate this.

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Indeed, as John Porro and others have stated, the very priest who blessed their marriage testified to this. Furthermore, the Ordinary of Ayacucho states: "Dionysius Garcia was born in the parish commonly called Huancaray, and Grimanesa Samanes in the parish commonly called Andahuaylas, and neither parish priest of Huancaray, who celebrated the marriage, is subject to them." Moreover, the advocate points out that the priest, Alvarez, was indeed a priest, but not the proper priest of either of the contracting parties, and that the marriage took place in a case without any license from either the proper parish priest or the Ordinary. It is clearly a matter of law, he recalls, that...

[*Latin ed. p. 590*]

590 AYACUCHO. The concession of the license must be obtained not through presumption, but solely through evidence. But since not one of all the witnesses even alludes to the delegation, and indeed, all at least seem implicitly to exclude it, it follows that the delegation did not exist in any way. However, all doubt would seem to be removed from the fact that, according to the testimony of the Ordinary, the parish priest himself, before whom the marriage was celebrated, did not hesitate to affirm that no delegation had been made in this case. Regarding the second point, the advocate, arguing for the nullity of the marriage, maintains that it was manifestly unconsummated. He notes, indeed, that beyond all doubt, from the sworn testimonies of the witnesses, the spouses never cohabited, nor were they together for even a single moment after the celebration of the marriage. As can be gathered from the very narration of the facts, the girl's father, scarcely after the wedding ceremonies were completed, unexpectedly and furiously arrived, and while all the others fled in fear, he immediately detained his daughter and took her away, and so vigilantly guarded her that Dionysius was no longer able to see her. Furthermore, there is the sworn testimony of a woman, who asserts, firmly and without any hesitation of mind, the unconsummation of the marriage. This confession, she adds, is certainly to be considered, not only because of the teaching of the canons and the practice of the Sacred Congregation of the Council, but also because of the exceptional probity and piety of the witness, as testified by the witness herself and by the Ordinary of Ayacucho in his letters sent to the Sacred Congregation of the Council. The advocate further argues that the woman's testimony gains even greater force from the confession of the man, who, after taking a prior oath, also affirmed that his marriage with Grimanesa had never been consummated. Finally, several witnesses, all of greater importance, agree, and those who were questioned, all, under the sanction of religious oath, openly and confidently proclaimed that the

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marriage in this case was by no means consummated.

[*Latin ed. p. 591*]

AYACUQUEN. 591 Consequently, since there remains no doubt, according to the petitioner, regarding the lack of consummation of the marriage, it seemed that there was a place for a dispensation, due to grave and legitimate reasons. He believes that those matters discussed above concerning the alleged nullity are most pertinent. For, he observes, although one may not wish to be persuaded that the marriage is entirely null and void, one certainly could not deny that it at least possessed a degree of doubt. However, he states that the very fact of this doubt has been shown to be the principal cause for granting a dispensation, since a most fitting reason, consonant with justice, is presented for the Pontiff to grant the dispensation.

REMARKS OF THE DEFENDER, i.e., THE DEFENDER OF THE MARRIAGE. On the other hand, the diligent defender of the marriage observes that the few acts upon which the petitioner relies are not only lacking in precautions to prevent fraud and collusion, but are, in fact, replete with such deficiencies, in the absence of the party defending the marriage. Furthermore, Benedict XIV, in his celebrated Constitution *Dei Miseratione*, expressly warns: "Whatever may be done in court, without the defender of the marriage being legitimately cited or notified, we declare to be null and void, and we wish to consider it as if that party, whose citation or notification was necessary, had not been cited or notified, in accordance with the prescriptions of the laws and canons, which are absolutely necessary for the legitimate validity of the judgment." However, he continues, even if no fraud, no collusion, and no errors have occurred, and therefore there is a place for the validation of the acts, nevertheless, whether the confessions of the spouses, or the statements of witnesses, or all of them are considered with careful attention, nothing is established regarding the alleged impediment of clandestinity, nor regarding the lack of consummation. First of all, he recalls, the marriage was certainly begun in the town of Pacobamba, before the local parish priest of Juancarama. Furthermore, it is certain that Crimanesa Samanes resided at that time in the aforementioned town of Pacobamba, within the boundaries of the parish of Juancarama. Therefore, the impediment of clandestinity cannot be raised unless it is first shown that Crimanesa Samanes, who was in the parish of Huancara-

[*Latin ed. p. 592*]

592 AYACUCHO. He stated that he did not believe that the requirements prescribed by Church law had been fulfilled, so that the marriage could validly take place before the aforementioned parish priest of Huancarama. Indeed, he observes that the spouses, the witnesses, and even the Ordinary of Ayacucho, only asserted that Grimanesa and Dionysius belonged to another parish and were not subject to the parish priest of Huancarama.

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Furthermore, he considers that this is not sufficient to demonstrate that the marriage was not tainted by clandestine circumstances. For, he says, it is well known that doctors do not agree among themselves regarding the conditions necessary for this, namely, how someone becomes a resident so that they can properly celebrate a marriage before the parish priest of that place. Therefore, judges who are investigating the validity of a marriage usually inquire about the specific conditions or the nature of the delay, and especially the duration, in order to determine whether the parties, or either of them, were subject to the parish priest of that place. This is all the more important, as he observes, because there is reason to suspect that the ecclesiastical officials whose investigation is currently underway are not very knowledgeable in these matters, and may even be harboring errors. Furthermore, the foreign vicar of the province of Andahuaylas, to whom the Ordinary of Ayacucho entrusted the matter, includes the following in his preliminary information: that the bride did not receive the nuptial blessing in her own parish, but in another, where she had been residing for two months, and that the consent of the father was not obtained, although she was 18 years of age. He wishes to point out that the vicar forane seems to have considered the necessary consent of the father to be required, contrary to what the Fathers of Trent expressly stated in chapter 1 of session 24 concerning impediments. He emphasizes that a very important fact has been omitted, namely, that Grimanesa stayed in Pacobamba, within the boundaries of the parish of Huancarama, for more than two months before the celebration of the marriage. In light of this fact, he cites Benedict XIV in a famous letter to the Archbishop of Goana, dated March 19, 1758, who wrote: "We believe it necessary to add something..."

[*Latin ed. p. 593*]

AYACUQUEN. 593. It is asked what is required to acquire a quasi-domicile. But in this matter, it cannot be answered otherwise than that, before a marriage is contracted, the party contracting must have resided in the place where the marriage is celebrated for at least one month. The definitions of the Congregation of the Council can be consulted on this matter in Fagnanus, in chapter "De parochiis," where, having carefully considered these matters, it states the following under number 39: "A man and a woman from Traiectenses, fearing opposition from their parents, having gone to the neighboring city of Aquisgranensi, and having resided there for some time, contracted marriage. When consulted, the Sacred Congregation judged that the time during which the contracting parties resided in Aquisgranensi should be considered; and that if it was at least one month, a decision should be given in favor of the validity of the marriage." From this, it is understood that John Perrone, in his work "De Matrimoniis," book 2, section 1, chapter O, article 5, page 278, teaches that a delay of one month definitively suffices for a valid marriage,

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in accordance with the aforementioned letter of Benedict XIV and the decision of the Sacred Congregation in Aquisgranensi. To this, Peter Gury, in his "Theologia Moralis," treatise on marriage, number 840, refers. He also mentions the response of the Supreme Congregation of the Holy Office of December 3, 1843, after which the defender states that he doubts whether this matter can still be disputed. Furthermore, a vicar forane has argued: "The bride is residing precariously, and therefore a residence of two months and a half cannot suffice to support the present case." However, first, he declares that he does not understand what is meant by the word "precariously," since the father of the Grimanesae, who travels here and there to earn his living as a stipend from the government, does not usually have his daughter at home, so that he suddenly placed her in a boarding school, and kept her there for several years, until the girl entered the congregation of the Monials of the Good Shepherd. Secondly, he argues, according to the aforementioned doctrine, that a residence of at least one month in any place is sufficient in itself, whatever the intentions of the resident may be. Therefore, he recalls that the same Congregation of the Holy Office, in the year 1885, in the Acts of the Council, Volume XXV, page CC XC VIII, 38,

[*Latin ed. p. 594*]

594 AYACUQUEN. In Baltimore, it was decided that those who have resided together for a period of one full month, without any investigation having been made regarding their intention to remain together for the greater part of the year, should be considered to have acquired a domicile, which is sufficient for contracting marriage. However, the defender of the marriage does not believe that it actually exists, and maintains that the marriage between Dionysius and Grimanesa remained unconsummated. He affirms that nothing prevents the belief that the new spouses may have conceived before Grimanesa's father discovered them. Furthermore, Grimanesa clearly states: that shortly after, her father arrived, on the very day that the marriage was celebrated, and took her away with him. Nor does he demonstrate that they did not meet again after the separation. For the same foreign vicar states: from the day they were separated, no one knows whether they saw each other or if any custom intervened between them. With these points noted, the following questions were proposed for consideration: I. Whether the nullity of the marriage can be established in this case. II. Whether a dispensation from a valid but unconsummated marriage should be granted in this case.

RESOLUTION. The Sacred Congregation of the Council, after discussion on May 21, 1892, decided to respond as follows: To the first question, the answer will be provided in the second part. To the second question, with prior examination of the facts, affirmatively.

BRIOCEN, OR PARISIAN. DISPENSATION FOR MARRIAGE. Decem-

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ber 10, 1892. Session 2, chapter 9, concerning the reform of marriages.

SUMMARY OF THE FACTS. On January 29, 1889, before the parish priest of the church of Saint Michael in the city and diocese of Briocensis, the marriage was celebrated between Maria Halláis, who was twenty-one years of age.

[*Latin ed. p. 595*]

BRIOUEN, OR PARIS. 598. There, a woman named Gastone de Viller, aged 29, residing in the archdiocese of Paris, lived with her husband for almost a year. Afterwards, under the pretext of visiting her relatives, she left her husband, and informed him by letter that she no longer wished to resume cohabitation. The husband, after having unsuccessfully tried to win back his wife, went to the civil court, and alleging that she had deserted the marital home and refused to consummate the marriage, he requested a divorce, which he easily obtained. Almost two years after the separation, at the beginning of the aforementioned year, the same woman petitioned that she be granted a dispensation concerning the valid but unconsummated marriage. She further stated that she, her husband, and many witnesses resided in Paris; and therefore, the aforementioned petitions were presented to the Most Reverend Archbishop of Paris, who, following the instructions of the Holy See, completed the proceedings and transmitted them to the Sacred Congregation, with the following observation: "All the testimonies seem to confirm one thing: namely, the lack of consummation of the marriage, and a certain insurmountable aversion of the woman towards her husband; and the examination of the woman's body, performed by experts, is entirely in agreement with the testimonies presented."

A SYNOPTIC ACCOUNT OF THE DISPUTE:

He who defended the woman maintained that the marriage had not been consummated, primarily based on the sworn faith of the spouses. Indeed, the woman testified that the marriage had never been consummated, and that she remained in a state of virginity. The husband, on the other hand, stated that the marriage had not been consummated because the woman vehemently opposed it; and that this opposition could only have been overcome by force; which he refused to use. This was also fully confirmed by testimony from seven witnesses. Furthermore, the defender praised the witnesses, and others whose names are omitted for brevity, for their high moral character and truthfulness; and therefore, he argued that sufficient proof of the lack of consummation of the marriage had already been presented, as required by law in chapter 5, DEFENSE OF THE WOMAN.

[*Latin ed. p. 596*]

596. BRIOCEN. OR PARIS. Concerning frigidity and a difficult condition,

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according to which standards dispensations have frequently been granted, even after consultation with the Sacred Office. However, the advocate states that this is said almost as an abundance, since two expert physicians, who, by order of the judge, examined the woman's body, presented clear testimony of her virginity. To further demonstrate that the examination was properly conducted, the advocate adds the sworn testimony of a woman of Saint Stanislaus, who testified: "A natural and warm bath was prepared for Madame de Viller, née Halláis... (who) remained in the bath for approximately three-quarters of an hour. Upon leaving the bath, the doctors designated by the official separately conducted their examination."

Regarding the reasons for granting a dispensation, the advocate states that the first such reason is that the need for a dispensation is not merely driven by grace, but also by a certain prudent administration of justice. It is indeed very likely that the woman entered into the marriage only out of reverential fear of Gaston. Indeed, she herself stated before the judge: "I felt great antipathy towards Monsieur de Viller, with whom I first refused to enter into marriage... finally, I yielded to the command of my mother, which was repeated many times, although I declared that I did not want to marry him." This testimony is entirely confirmed by several witnesses, and especially by the woman's mother, whose testimony is consistent with that of the Reverend de la Villerabel, General Secretary of the Episcopal Curia of Briocen, Canon Mando, Dean of the Chapter of the Cathedral of Briocen, and many others.

No less serious is the second reason, which arises from a betrothal made in good faith, which the woman had previously entered into with a certain Detertre, a military official, and which she always intended to keep intact. Hence, a serious doubt arises concerning the validity of the marriage due to the lack of consent. For, as testified by Cardinal D'Annibale in *Summa Theologica*, part II, § 430, no. 40, and part III, § 313, no. 3, a marriage is invalidly contracted by one who does not have the intention of transferring the right of his body to his spouse.

[*Latin ed. p. 597*]

BRIOCEN. OR PARISIAN. 597. For these two special reasons, in addition to others common to such cases, namely, mutual consent, aversion of affections, and the impossibility of reconciliation, for which the Supreme Pontiff is wont mercifully to grant dispensations concerning marriages that are valid but not consummated. And since, moreover, the advocate observes that the eternal salvation of his client is gravely endangered, because she is still in the prime of her life, and is sought in marriage by a beloved and worthy suitor, he earnestly requests that the prayers offered for a dispensation be received with benevolence.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. The advocate of the sacrament vigorously contends that there is no doubt, nei-

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ther concerning the lack of consummation of the marriage, nor concerning the just causes for granting a dispensation. First, he rejects the confession of both spouses at the beginning of the affair, because, according to Sánchez de Matrim., book 2, disputation 45, number 33: "Confession is valid only when it is made in favor of those who confess, and therefore, it proves nothing." Furthermore, he rejects the sworn testimony of the seven witnesses, because they are suspected of being swayed by the interests of the parties; and he presents other witnesses who are entirely free from any such bias, among whom not one declared Mary to be unworthy of faith. These witnesses, indeed, carefully avoid answering such questions, as do the priests Henry Robert and Peter Florent du Bois de la Villerabel, who were content with this or a similar response: "Since the witness does not live in the house, nothing can be said about the veracity of the lady of Viller," or, without ambiguity, "Mary is not worthy of faith." Furthermore, the advocate adds that the request for *praesidium* (Somãa) from the opposing side is unwarranted and harmful, because the question that Celestine III addresses is entirely different from our case. Indeed, here we are dealing with young people who are fit for marriage and are not to be corrupted; and the marriage, if you listen to them, is imperfect and incomplete, because they did not want to perfect it. But the Pope, in the cited passage, speaks of a man who is being led into uselessness, to whom other marriages are forbidden: "But if he takes another, then those who have sworn shall be held liable for perjury, and, after having performed penance, they shall be compelled to return to their former marriage."

[*Latin ed. p. 598*]

598 BRIOCEN. OR PARIS. Furthermore, an examination performed on the body of a woman by physicians does not invalidate the presumption of chastity, because it lacks the essential precautions prescribed by law for such examinations to be considered valid. Indeed, in § "Procedendum et seq." of the Instructions of the Sacred Congregation of the Council, dated August 22, 1840, it is stipulated that the body of a woman must be examined by at least three midwives; and that this examination must be conducted in such a way that each midwife submits a written report of the examination, and undergoes a judicial examination, before being able to know the testimony of the other midwives. It is also stipulated that at least two physicians must instruct the midwives who are to perform the examination of the body, and then they must examine and judge the report submitted by the midwives. Therefore, at least five witnesses must be used: namely, three midwives and two physicians; and to prevent any dangers of fraud or collusion, it is stipulated that each witness must give their testimony before being able to inquire about or suspect anything regarding the testimony of others. However, in the present case, the physicians Bucquoy and Ferrand, without any other witnesses or arbiters, and with the midwives

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absent, conducted the examination, and they conducted it in such a way that each, while giving testimony regarding the preservation of virginity, could know or could have omitted the testimony given by the other: so that, in effect, not five, indeed not even two, but only one witness, in a certain sense, was present. Furthermore, the testimony of the pious Saint Stanislas is irrelevant. While Maria Hollais was leaving the bath, expert physicians, appointed by the authority, separately examined the body; and in this separate examination, a judge from Paris, on December 21, 1891, in a related case, stated: "The experts indeed entered together into the room where the examination was taking place, but then 'they examined the body separately, which seems sufficient, given the context of the instructions.'" The lawyer, however, argued the contrary, citing the Instructions, whose words "It will be necessary for each to proceed separately for the examination of the body" explain and strongly emphasize this point. Then, addressing another point of his argument, the defender noted that in this matter, a dispensation cannot be granted without...

[*Latin ed. p. 599*]

BRIOCEN. OR PARISIAN. For five hundred and ninety-nine reasons, and he adduces the testimony of Leurenii de foro ecclesiae, book 4, question 277, who states that a just reason is required not only for the lawfulness, but also for the validity of a dispensation. With this established, he first argues that the alleged fear of scandal, by which the woman contracted marriage against the will of the patron, is not only unproven, but also appears implausible. For, according to the testimony of August Dany, Mary has an intractable character; and the same priest, Peter de la Villerabel, testifies to this. Therefore, when the priest Henry asked the judge: "Do you know that Mary's mother exerted pressure on her daughter to enter into marriage with the lord of Vilior?" he replied: "This pressure appears implausible." It is also certain that Mary developed an antipathy towards Gaston in the months following the marriage, as Gaston's mother testifies. Regarding the second reason brought forward against her, the defender points out that there were never true betrothal agreements between Mary and the young man Dutertre; but rather, when the matter of marriage with Gaston was begun, those agreements had already vanished into thin air, due to the fact that the young man Dutertre had bid farewell to Mary. Furthermore, with regard to the other reasons, the defender maintains that the mutual consent of the spouses is by no means a sufficient reason for a dispensation, as Sánchez de Matrim., book 2, disputation 10, number 9, teaches; and that the reconciliation depends entirely on the woman. For Gaston gave no reason for leaving his wife; and Mary, under oath, affirms that the responsibility for the lack of consummation is not hers; and she added that she left the lord of Viller when he ordered her to leave, because she refused to yield her body: indeed, it is proven that Gaston repeatedly

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urged Mary to restore her accustomed way of life; but Mary stubbornly resisted. Therefore, with these things brought forth from here and there, the intention was to undermine [the argument].

[*Latin ed. p. 600*]

600 BRIOCEN. OR PARISIAN. A Doubt: Whether the Sacred Congregation should grant a dispensation concerning a marriage validly contracted but not consummated in a certain case. RESOLUTION. The Sacred Congregation, having considered the matter on December 10, 1892, decided to respond affirmatively.

CAPUA CANONICAL. December 10, 1892. Through a Summary Petition, a COMPENDIUM OF THE FACTS is presented. After the laws concerning the goods of the Church were overturned, the Chapter of Capua, which formerly consisted of forty canons, was reduced to a mere twelve, to the great detriment of divine worship and choral service. The present Archbishop, scarcely having taken office, with the consent of the Chapter, presented petitions to the Sacred Congregation to obtain permission to elect eight honorary canons from the order of deacons, granting them the titles of deceased canons, as well as the duties and rights attached to those offices, except for those that belong to the demesne. He also requested the faculty to issue archiepiscopal bulls in favor of the aforementioned eight canons, with the obligation to obtain apostolic bulls within four months, so that, over time, they would acquire the revenues of the respective canonical benefices. And since he also wished to promote to these canonries those who already held some ecclesiastical benefice, he finally requested: the faculty by which these new canons, serving the metropolitan Church, could retain their former benefices, except in the case where they would lose their temporal possessions. In response to such petitions, a decree was issued by the Most Holy Congregation on March 21, 1881: "Having considered, etc., for the faculty..."

[*Latin ed. p. 601*]

"CAPUANA, 601. It is decreed that canonical appointments may be conferred with dispensation and authorization to those aspiring to such positions, allowing them, along with the canonical appointment, to retain, if they possess it, some simple benefice, until they obtain the canonical institution; however, each of those aspiring to such positions is obligated to obtain the Apostolic Letters of collation as soon as they receive the canonical institution, with mention in the letters of collation from the Archdiocesan Curia of this present grant. Furthermore, shortly thereafter, the same Archbishop requested from the Holy Office that he might be able to choose two parish priests of the city of Capua for the aforementioned canonical positions, so that those elected might relinquish the care of souls, and indeed, the desired outcome was achieved by a rescript of December 14, 1882, also

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from the Audience of the Holy Father, with the clause: "provided that no prejudice be caused to the care of souls." This has also been granted in subsequent, special vacancies of canonical positions, on three occasions thus far. Now, however, the Archbishop, in order not to have recourse to the Holy Congregation in each instance, requested permission to name canons, of whom we are speaking, even among the parish priests of the city, so that those deemed worthy might be allowed to retain their parish, until they are appointed to the canonry with its revenues; however, a coadjutor must always be appointed to each of them, so that the service to the parish would not suffer any detriment.

A Brief Summary: It is commonly held, as noted by Cardinal De Luca in Annoi, ad Conc. Trident., diss. 8, n. 19, that residential benefices, especially those with the care of souls, cannot in any way be united with a canonical institution, and furthermore, that, as is clear from numerous resolutions of the Holy Congregation, it is by no means permissible for a parish benefice held canonically to be retained at the same time. Nor can it be said that this does not concern a true canonical institution; for since these canons are designated to succeed others in the future, and not otherwise than others..."

[*Latin ed. p. 602*]

602 In CAPUANA, ecclesiastici munera obire tenentur; sed forsan *casus* (Kosso) praebet occasionem accumulationis duplicis beneficii, cum onus incumbat diversis ecclesiis residendi; quod profecto contra canones videtur esse. Praeterea, considerandum est quod S. C. sive in responsione diei 21 Martii 1881, sive in aliis, habuit in animo detrimentum quod ex electione parochorum ad regimen canonicatus animarum advenire potuisset. Hoc vero detrimenti periculum non videtur omnino excludi deputatione coadiutorum. Est enim notum quod parochi, cum maior cura animarum vigilant, prae illis qui vicariam et temporaneam operam praebent, et alii parochi bonum plebis negligere possunt, cum sciant brevem acquisitionem praebendae canonicae, relinquendam esse. Verumtamen, ex adverso, rationes magnae momenti a Eminenti Archiepiscopo sunt prolatae, qui scribit: "quoniam clerus in dies decrescit, et ad canonicatus eligendi non solum digni, sed qui habeant in bonis ut decoram vitam degant, id semper verificari non potest in simplicibus ecclesiasticis." Et alibi: "hac in archidioecesi, ubi beneficia parochialia sunt quamplurima, et plerumque cum parvo numero fidelium, pene omnes iuvenes sacerdotes, ingenio commendabiles et honestate vitae, renuntiant parochi per concursum theologiae moralis; hos inter omni aevo electi sunt canonici omnino digni." Post electionem peractam, adsunt extra parochos ecclesiastici aut modicae habilitatis, aut vitae rationes non satis graves, aut adhuc iuvenes; tales tandem sunt qui tenere nequeant ea loca ex quibus erui Episcopi consiliarii, aut vicarii generales, aut magistri Theologiae, vel rectores Seminarii, vel deputati super disciplinam, etc. Quod si minus digni his honoribus decorarentur,

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digniores parochi id aegro animo ferrent, et discrimen pararetur Dioecesi. Addit autem se huiusmodi preces S. C. C. transmittere, quia citius consuleret rei necessitati, et quia, si toties quoties facultas petenda foret, prius oporteret rem conficere cum eligendo, ne frustra ageretur cum Apostolica Sede. Tandem, relate ad detrimentum quod gratiae concessione anim-

[*Latin ed. p. 603*]

In CAPUA, concerning 603 marriages, it must be considered that, in such matters, the opinion of the Holy See of Bishops is usually given great weight, since they are those best informed and most concerned about the needs of the people entrusted to them. It is also necessary to note that the matter pertains to parish priests who are in charge of small parishes, and who, therefore, can most easily fulfill both their parochial and canonical duties. Indeed, the city of CAPUA, which has approximately 12,000 inhabitants, has 21 parishes, of which, as the Archbishop of that place stated, one or two have about a thousand faithful, while the others have only a hundred. With these premises, the question was raised as to what should be answered in prayer. RESOLUTION. The Holy Congregation, having been informed of the matter on December 10, 1892, decided to respond: For [a period] of five years. PALERMO, MARRIAGE. On January 28, 1793, Session 24, Chapter 1, Concerning Reforms, Marriage. Franciscus Corallo of Lyciensis, who, in the year 1883, received a stipend as a member of the eleventh cohort of foot soldiers in PALERMO, was living in the house of a certain Francisca Cozzucoli, the widow of Salvator Zangari. It happened that a close acquaintance developed between Franciscus and the daughter of Francisca, named Concepta, which gradually aroused affection in the hearts of the young people, so that, shortly thereafter, they began to speak of marriage. However, Concepta was pregnant, and therefore, the military laws forbade Franciscus from entering into marriage with her. For this reason, and for other reasons, it happened that on January 5, 1889, Franciscus Corallo and Concepta Zangari, together with two witnesses, were brought to the parochial church, and, unexpectedly, appearing before the parish priest, they openly declared their mutual consent to enter into marriage. SUMMARY OF THE FACTS.

[*Latin ed. p. 604*]

604 P. At PALERMO. After these events, the newlyweds returned home, and remained there together for two days; however, as they themselves assert, they did not use the same bed, nor did they engage in marital relations. On the morning of January 7th, Francis departed and traveled to LECCE; he would not return to his wife. For, while residing in his homeland, he began to cultivate affection for another young woman, and progressed to the point that he began to discuss entering into marriage with her. Upon receiving a notification from Concepta, testifying to the marriage contracted

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in PALERMO, the Bishop of LECCE summoned the young woman's father and informed him of all that had transpired. Meanwhile, Francis, who had initially vehemently denied Concepta's claims, was compelled to reveal everything, and after several months, specifically on September 29, 1890, he presented a petition to the Most Reverend Archbishop of PALERMO, requesting that the marriage be declared null and void due to lack of consent. A legal process was then initiated in the court of PALERMO, where the woman was heard, and witnesses were presented based on her testimony; indeed, her husband and a seventh witness gave their depositions in the court of LECCE. On July 11, 1891, at the woman's request, three midwives appointed by the judge examined Concepta's body. How the examination was conducted, as well as the medical and expert opinions, will become clear from the arguments presented by the parties. It suffices here to state that a judgment was rendered on November 4th of the same year, 1891, in favor of the validity of the marriage, and that Francis immediately appealed to the Sacred Congregation. Subsequently, both spouses added petitions to the appeal, praying for a dispensation from the Supreme Pontiff regarding the valid but unconsummated marriage, and on June 23rd of the following year, Francis's advocate obtained a sanction for the inquiry regarding the dispensation from the Audience of the Most Holy, with the clause: "Provided that the acts are completed according to the rites of the Holy Church."

[*Latin ed. p. 605*]

PALERMO 605. A Synopsis of the Arguments. The defender recalls, above all, the authority of chapter XIV concerning marriage: "For marriage is contracted solely by consent, and when it is questioned, it must enjoy full security, and the mind of the parties must be investigated, lest, through fear, one say that they consent to what they hate." He argues that, in this case, there was no marriage due to the lack of true and free consent on the part of his client. This, he maintains, is primarily evident from the fact that Concepta chose him for marriage, in order to obtain, even against Francis's will, what was in her desires, and also from the fact that the marriage was entered into before two witnesses of intimate knowledge, Concepta's mother and sister, who were summoned while Francis was about to return from Lecce. Furthermore, Francis recalls that he never intended, before the marriage, to ever unite himself with Concepta in matrimony. This is also confessed by Iosepha Lodrini, Concepta's sister, and is further confirmed by Augusta Lodrini, Concepta's niece. The defender believes that all these things receive strength and confirmation from Francis's conduct, who not only often rejected proposals of marriage, but also, in order to ward off Concepta's persistent solicitations, was previously staying in a military hospital, and then, on the very day before the marriage, he requested and obtained permission to go to Lecce, in order to attend to his health.

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However, the advocate strives to prove that Concepta, her mother, and her sisters threatened Francis, as when they told him: "You will not leave Palermo unless you enter into marriage in truth; we assure our brothers that they will persuade you to marry." The defender argues that these threats sufficiently reveal what scandals would have arisen, and what harm would have been inflicted upon Francis, if he had once again rejected the celebration of the marriage with all his might. He contends that these conjectures receive greater force if one considers the manner in which Francis defended himself through his *DEFENS IO VIRI*.

[*Latin ed. p. 606*]

606. The Defender argues that, according to the testimony of those present, the marriage was celebrated with the consent of both parties, and that this consent was maintained even after the beginning of the marriage. He claims that this is clearly demonstrated by the testimony of the parish priest, Vincent Panzera, before whom the marriage was celebrated. Panzera himself stated that the woman was joyful, while the man appeared reserved, and that he had great difficulty in providing his own name after the marriage. However, the Defender argues that not only does this testimony not prove the free and full consent of Francis, but that, furthermore, the subsequent conduct of the parties demonstrates the contrary. Indeed, the spouses, as the witnesses declare, refused to consummate the marriage, and after two days, the man left the marital home to go to Lycium. Finally, the Defender asserts that the defect of nullity is clearly evident from the non-observance of the *forma* of marriage, which is prescribed by the Council of Trent, Session XXIV, chapter 1. He recalls that, in order for a marriage to be entered into properly and lawfully, it must be celebrated before a priest and two witnesses. He cites Sánchez De Matrim, disputation XXXIX, number 1, who states: "In this discussion, it is clear that, for the validity of the marriage, the presence of the priest and the witnesses is necessary, not only physically, that is, in person, but also morally and humanly, which adds to the physical presence the use of reason and awareness; therefore, it is required that the priest and the witnesses use their reason and understand the consent of both parties. Therefore, if they were drunk or asleep, or did not understand, or if the witnesses were children, the marriage would not be valid." The reason for this doctrine is found in law 209 ff. concerning words and the validity of the sign. Furthermore, the Defender is convinced that one of the two witnesses, namely Vincent Utro, was not present at the marriage in a human manner; indeed, the defender of the marriage bond confesses that he could swear a thousand times that he heard nothing from Corallo, nor from the girl. The Defender notes that this testimony is particularly important, both because it was given under oath, and also because the integrity of Vincent Utro's life is attested to by both ecclesiastical and civil

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authorities. And it is not...

[*Latin ed. p. 607*]

In Palermo, the plaintiff argues that the parish priest's declaration should be rejected, claiming that it was entirely impossible for the witnesses to have not heard or not seen what occurred, since they were standing no more than a meter away from the couple. Furthermore, he states that Vincent either, due to a disturbance of mind or for some other reason, was unable to perceive the consent of the contracting parties, and that, as the priest himself admits, it is not surprising that the witness, being uneducated and simple, understood nothing. Moreover, to prevent any credence being given to him, he concludes that the witness must be proven to have perjured himself.

Turning to the second part of his argument, the plaintiff, proceeding with his case, discusses the matter of a dispensation. First, he points out that two things must be proven, namely, the lack of consummation of the marriage and the existence of a just and honest cause, as stated by Cosin in *De Separ.*, book 3, chapter 2, paragraphs 94 and following, and as agreed by Fagnanus in chapter "Ex Parte," paragraphs 24 and 26; De Iustis De dispensat, matrim., book 2, chapter 10, paragraphs 21 and following; Schmalzgrueber in *His Canonicum*, part 4, paragraph 19, paragraphs 50 and following; Ursaya in *Discipline Eccles.*, volume 2, part 1, discourse 3, paragraphs 24 and following; Cardinal De Luca in *Discipline 9 De Matrim.*, paragraph 8; Pignatelli in *Consultationes Carum.*, volume 1, consultation 148, paragraph 15, and others. He notes that, to prove the lack of consummation, a sworn deposition from a conjugal witness, supported by seven witnesses, is sufficient, and that in this case, such a deposition exists, fulfilling all the requirements. Furthermore, he maintains that clear proof of the woman's virginity can be obtained through an examination of her body.

Therefore, the plaintiff states that the woman, Concepta, was observed by the honorable matron, Iosepha Costa, widow of Costantini, to have remained in the bath for more than three hours, and that afterwards, her genitals were examined by three midwives. These midwives all declared that the woman remained in a state of virginity. The plaintiff observes that these declarations of the midwives are fully consistent with expert judgment. From these declarations of the midwives and other witnesses, he concludes that the lack of consummation of the marriage is wonderfully proven. Thus, having established the lack of consummation of the marriage, he proceeds to...

[*Latin ed. p. 608*]

608. P. Anormit enumerates the causes for a dispensation and notes, according to Cosci, *De Separatioribus*, book 3, chapter 2, number 95 and following, that, as long as both spouses agree to the dissolution, a lighter

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cause is required to be presented to the Supreme Pontiff. He states, first of all, that an irreconcilable aversion of the soul, which he calls the dissociation of souls, when there is no hope of reconciliation, is of such importance that, according to Sánchez, *De Matrimoniis*, book 2, dispute 16, number 4, and Cosci, *De Separatioribus*, book 1, chapter 14, number 215 and following, it is sufficient in itself to obtain a dispensation. To these, he adds, there is at least a doubt about the validity of the marriage due to a lack of consent, and also the danger to the souls of Francis and Concepta, given their young age, which certainly provide a just and honest cause for a dispensation.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. However, the defender of the validity of the marriage, after noting that from the very document presented by the spouses, a mutual conspiracy to invalidate the marriage can be deduced, attempts to demonstrate that the fear instilled in Francis was merely a fabrication. Indeed, Concepta, before the judge, not only affirmed that her mother had placed Francis in a position to either leave or enter into marriage... but also stated that her family consisted of three sisters and their mother; who, through persuasion and prayers, exerted such influence on the mind of Francis that he entered into a clandestine marriage; and the defender reminds us that all the witnesses testified that this woman's confession was consistent with the truth. He does not consider the objection raised by Francis, that the consent given by the parties in the marriage was not heard by one of the witnesses, to be of any merit. For the parish priest stated that the room in which the bridegroom and witnesses met was small, so that it was impossible not to hear and see what was said and done. Furthermore, the defender argues that Francis's assertions should not be given credence, since he is accustomed to contradicting the truth, and this will be fully demonstrated in what follows. Indeed, he recounts...

[*Latin ed. p. 609*]

In Palermo, a defender of the sacrament, while Aletius was staying among his own people, after having completed his marriage with Concepta, was captivated by the love of a certain girl from Lecce, and attempted to join her in marriage. When this was discovered, and Concepta had sent a testimony of her marriage from Palermo to the Bishop of Lecce, and the Bishop had revealed the whole matter to the girl's father, at first he denied that anything had happened in Palermo; but after a time, being afflicted with a serious illness, he confessed everything. However, when he recovered from his illness and had again set out for Palermo, he approached the parish priest Vincent of Panzera, seeking his assistance in having his marriage erased from the parochial records, as he claimed, because he had not obtained it. Nevertheless, the defender of the marriage considers it surprising that Francis, the instigator of deceit, after having failed to have the marriage erased from the parochial records, should then,

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having lost all hope, resort to the remedy of a dispensation. Moreover, he does not believe that either he or the woman should be commended for their actions, since they present themselves as outstanding cultivators of chastity. As for Concepta, he notes that she has shown evidence, through the persuasions of a certain Neapolitan lawyer, and through her weariness from the situation in which she finds herself, that she has acted according to what is proper. Furthermore, when Concepta's virginity is brought forward to support the claim of the marriage's invalidity, the defender of the marriage asks whether Concepta still possessed the bloom of virginity when the marriage was consummated. He observes that this hypothesis cannot provide any reason for Concepta's mother, sisters, and brothers (whom she says are still unborn) to seek revenge against her, nor does he believe that Francis, a man addicted to weapons, could have been so afraid that he would have been forced to enter into a marriage against his will to avoid a greater evil. But even if Francis, alleging fear, is lying, and therefore, before the marriage, did nothing with Concepta other than to induce her to give him a kiss, it is entirely contrary to truth that, after the consummation of the marriage, the young man was content with kisses, and that he, leaving Palermo after two days, was bound by the most serious marriage bond, deriving no advantage and suffering no loss.

[*Latin ed. p. 610*]

610. The accuser alleges that [Concepta] promised herself something, but only in order to act in a certain way and to induce [the other woman] to give her a kiss. He claims that she did nothing that a few witnesses speak of concerning the alleged consummation of the marriage. Furthermore, he argues, it is unbelievable that spouses would have recognized, from the very beginning, that the lack of consummation, if they wished to withdraw from the marriage contract, would be a means of escape; and that they would have later resorted to this pretext, while having at their disposal this safest means of salvation. However, the defender does not maintain this. He states that [Concepta] requested the judge to ascertain the lack of consummation through a physical examination, and that the judge agreed to this request. However, in the examination that was carried out, the strictest precautions prescribed by the Sacred Congregation in the Instruction of August 22, 1840, in § "Procedendum," were not observed. As Sánchez de Matrimonio states, lib. 7, disp. 108, n. 8, "the eyes and hands of the midwife can be deceived; especially because women use many tricks with which they can appear to be virgins." These tricks are enumerated by Zacchia, Quaestiones Medicae, Legales, lib. 3, tit. 2, quaest. 7, n. 1. Furthermore, the defender does not claim that a warm bath was used in the present examination; on this matter, the records are silent. He does not insist that [Concepta] did not remain in the bath for at least three quarters of an hour, but only for twenty or twenty-five minutes; but he does point out

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that the midwives did not delay in the bath, and, what is even worse, that they were not allowed to examine the body immediately after the bath, as the aforementioned Instruction prescribes. The actuary notes: "It is to be noted that after the bath, the woman was kept secluded for a quarter of an hour, alone with her mother and a matron." Therefore, the accuser argues, if [Concepta], who was quite warm, remained secluded for a quarter of an hour after the bath, alone with her mother and a matron, it is not surprising that the midwives perceived her to be a virgin, or that all the midwives found the genitalia of [Concepta] to be remarkably narrow.

[*Latin ed. p. 611*]

In Palermo, the defense argues, a matron present stated: "The delay between the end of the bath and the beginning of the examination must be considered, because Concepta first needed to dry her body, put on clothes, and drink an Arabic potion with a biscuit, as she was weak. For if Concepta had only needed these things, and if, after leaving the bath, she had used no medicine, nor any trick to tighten her body, the midwife who could have assisted her and provided help would have had no reason to fear." Finally, she observed that the discussion about the lack of consummation of the marriage was entirely outside the scope of the present judgment. She further noted that the judgment concerning the nullity of the marriage, and not the lack of consummation, was instituted on September 29, 1890; that the sentence issued by the archiepiscopal judge of Palermo on November 4, 1891, regarding the alleged lack of consummation of the marriage, was entirely silent; that in the appeal, only the request was made that the marriage be declared null; that the plaintiff's advocate affirmed that the acts proving the lack of consummation of the marriage were complete and regular, and insisted that the judgment of nullity be joined with the judgment of dispensation; and that the Most Reverend Prelate, on June 23, 1892, acceded "provided that the acts have been completed according to the rules." She believes that, from what has been said, it is clear that the acts were not completed according to the rules. Furthermore, she notes that the law requires that, in addition to the woman's physical examination, the knowledge of the witnesses present should be inquired into, as to what they know about the lack of consummation of the marriage, and what they have heard from the spouses and others, especially at a time when there was no suspicion. Indeed, she observes that, in this case, the witnesses on the husband's side were neither questioned nor could have known anything about the lack of consummation, since they do not even know that Francis married; while the witnesses on the woman's side were only questioned incidentally and carelessly, and not all were questioned. With these points

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in mind, she proposed that the matter be further investigated.

[*Latin ed. p. 612*]

612. REGARDING A DOUBT FROM PALERMO. I. Whether the sentence of the archiepiscopal court of Palermo, dated November 4, 1891, should be confirmed or annulled in this case. And, supposing it should be confirmed, II. Whether it is necessary to consult with the Most Holy Congregation regarding a dispensation concerning a marriage that is valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after deliberation on January 28, 1893, decided to respond as follows: To I. The sentence is to be confirmed. To II. It is postponed, and a new examination of the woman must be carried out, strictly observing the form of the Instructions of the Sacred Congregation of the Council, of the year 1840 (1). FROM WHICH IT IS UNDERSTOOD: I. The marriage remains valid in the eyes of the law, because it was entered into with complete freedom, and neither force nor fear were able to affect it. II. Neither will the spouses be separated by a dispensation, unless they diligently strive to demonstrate a more suitable reason for the inconsummation, having already employed the means available.

—●—-S^~0-^mT~—● BURDIGALEN. CONCERNING MARRIAGE. January 28, 1893. Session 24, Chapter 1, Section on Reforms. Behold, James Lesbre, a military officer, is presented before the Sacred Congregation for the third time, who maintains that the marriage he contracted on November 18, 1876, with Cecilia Hannonet de la Grange in the parish church of Saint Martin of Vendresse, is null because of a condition imposed and accepted, namely, to avoid having children. Indeed, after seven years of cohabitation, the spouses had separated in body and goods, and then the husband, through adultery...

COMPENDIUM OF THE CASE. (1) The aforementioned instruction is found in Volume I, page 439.

[*Latin ed. p. 613*]

BORDEAUX. For the cause of 613 days, having obtained a decree of divorce from the civil tribunal of the Seine, a cause for nullity was brought before the ecclesiastical court of Bordeaux, in which, on July 18, 1889, judgment was rendered against the existence of the marriage bond. Then, for the first time, the matter was brought before the examination of the Sacred Congregation of the Holy Office, and on June 14, 1890, the following question was proposed: "Whether the sentence of the archiepiscopal court of Bordeaux should be confirmed or annulled in the case." The Eminences and Reverend Fathers decided to respond: "Let the proceedings be extended and completed, according to the instructions to be given by the defender of the marriage ex officio." After this instruction was transmitted, and while the judge of Bordeaux was proceeding further, and when

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the aforementioned new documents reached the Sacred Congregation, the question was again proposed to the Eminences and Reverend Fathers for discussion. However, in plenary sessions held on June 27, 1891, after mature deliberation, the Eminences and Reverend Fathers decreed: "Let a new process be initiated in the court of Rheims." The Archbishop of Rheims, readily obeying the order, took care to have the proceedings completed in his court, and the documents were sent to the Sacred Congregation as of September 14 of the recently elapsed year.

SYNOPTIC DISCUSSION.

DEFENSE OF THE HUSBAND.

He who contends against the validity of the marriage in favor of the husband, recalling the axiom that questions must be resolved according to the facts and proven evidence, notes that in this case, the witnesses who testify for him claim the greatest authority. Therefore, he maintains that, above all, the depositions of the spouses must be considered; however, since the husband affirms the existence of the condition, and the wife denies it, he says that it is necessary to inquire, from the testimony of others, to whom more credence should be given. He recalls that the parish priest, Deseveaux, testified: that he believed the husband's deposition to have been made truthfully before the tribunal; and that he had testified exactly the same in the new examination before the court of Rheims. On the other hand, regarding Cecilia, he does not doubt that she asserted: that Cecilia de la Grange did not give a certain demonstration of religious faith, either before or after the marriage. And to support this judgment, he invokes the authority of the priest of the woman.

[*Latin ed. p. 614*]

614 BURDIGALEN. and the family of the procurator de la Grange: who was astonished that a virtuous man could have taken her as his wife. To these, he added, "Ciodomirum Buiron, Gilbert Matel, Anne Laurdain, and Mary Carte, whose testimonies have already been presented to the Most Reverend Fathers in the other part of the case." However, it must be added that the same witness, Mary Carte, testified before the court in Rheims, stating that she believed in the virtue of the man, not in Caecilia, whom she considers to be a liar. Furthermore, the advocate notes that witnesses were brought in at the court in Rheims to testify in favor of the bride. Among these, Victor Dévaux, a commissioner of the government, testified favorably for the man, and against the woman's reputation. After these testimonies, which reveal the good reputation of his client and, conversely, the bad reputation of the woman, it is not to be doubted, the advocate believes, that faith should be given to the man, who affirms that the condi-

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tion imposed by Caecilia, namely that no children should be born before the marriage, was imposed and accepted by him. Moreover, he continues, according to the instructions for marriage cases, nothing was omitted in this new process so that Caecilia could refute the accusations against her and defend her honor. But since the entire question revolves around the facts, and the testimonies of witnesses are of the greatest importance in matters of fact, the advocate believes it is necessary to determine to which of the spouses these testimonies should give the most weight, since the truth cannot be ascertained from any other source. First, he offers the sworn testimonies of the parents of the man, which entirely support him; for it is clear from these that the obligation assumed by the woman not to have children was a condition without which there could be no marriage. The advocate observes that this testimony is wonderfully corroborated by the aforementioned parish priest, Désévaux, who confirmed what he had previously testified in the new process in Rheims. The advocate then proceeds to demonstrate the value of this testimony, either by the familial custom by which the parish priest was bound to the Lesbre family, or by the honesty of the priest, which was attested to by the Bishop of Moulins in a letter to the aforementioned parties.

[*Latin ed. p. 615*]

BORDEAUX. The Cardinal Verga has strongly approved of this case. Furthermore, a new deposition from Clodomir Buiron has been added, which confirms that the aforementioned condition was entirely imposed by the woman. Gilbert Martel, Anne Lourdain, and Mary Carte testify to essentially the same thing. The sister of Cecilia, Mary Aloys, from German Hannonet, after stating that she was solely concerned with stating the truth in her testimony, declared: that she had heard her sister say that having children was a great inconvenience. Indeed, the defender argues that against this accumulation of depositions, nothing of any weight is presented in opposition. He reports that, from the witnesses presented for Cecilia, namely, Dame Eva, the priest Robert, Ernestine Rontemps, Mathilde Gilmet, and Alexander Hannonet, unanimously confessed that they were completely unaware of the condition of the scandalous agreement, and that they were only related to Cecilia by blood, adding: that they were entirely convinced that such a condition was not immoral. Therefore, the defender concludes, since the confession from Cecilia regarding the added condition, which is essential, is corroborated by trustworthy witnesses, while nothing is asserted to the contrary, he believes that he has established the validity of the doctrine in Chapter [omitted], concerning conditions imposed. "If conditions are inserted that are contrary to the essence of marriage, for example, if one of the contracting parties says to the other: if you avoid having children... the marriage contract, however favorable it may be, lacks effect." This is also explained in Reiffenstuel, *Jus Can. Univ.*, Volume II, Title V,

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number 44. After these points, the advocate proceeds to demonstrate the nullity of the marriage due to the lack of intention to celebrate the true sacrament. In the first place, he recalls that in the Church, a simple contract is not admitted, but it is required that the sacrament be celebrated not only with the observance of the forms, but also with the intention of the minister to confer the sacrament, as stated by St. Thomas [Summa Theologica], Volume VII. Therefore, if the spouses, who are the ministers, do not intend the sacrament in the sacrament of marriage, it is not perfected. Indeed, in this case, he argues that this intention was entirely lacking, especially on the part of the woman, based on the declaration that the woman made to him, as reported by the parish priest of Désévaux: namely, that she did not...

[*Latin ed. p. 616*]

616 BURDIGALAE. She had refused to receive the Sacrament; and this is confirmed by the witnesses Clodomiras Buiron, Anne Lourdain, and Stephen Bertoux. After encountering the objections raised by Cecilia in the new process, the defender first notes that, concerning the pregnancy, which she again asserted, she did not exclude the condition imposed before marriage, and therefore, whatever may have happened afterward, could not remedy or validate what was null from the very beginning. Furthermore, he observes that the artificial means used by Cecilia to avoid generation during the marriage confirm her intention of maintaining the condition imposed. Moreover, he points out that the pregnancy was purely Cecilia's fabrication, and this is evident from the testimony of the doctor Sidoux, who wrote that she had her menstrual periods: which, indeed, cannot be reconciled with pregnancy. Finally, after having presented the testimonies of the witnesses and the judgments of the civil court, the defender, after having refuted the calumnies concerning the dishonorable life of James and his cruelty towards his wife, Cecilia asserted that it would be appropriate to recall the observations of the defender of the marriage in the court of Rheims for examination. And first of all, in order to refute the doubt as to whether the condition regarding the non-procreation of children renders the marriage null, he considers that, in these cases, an absolute and evident certainty is not required for a declaration of nullity. He recalls that, according to the practice of the Holy See, moral certainty is sufficient, according to the doctrine of Covarruvias, part 12 and chapter 7, "De Clericatus et Sacramenta Matrimonii, etc.," and he contends that this is especially evident from the decrees of the Congregation for Matrimonial Causes of March 28, 1857, and June 20, 1878, from Paris. Furthermore, in the matter of moral certainty, he defends that it is fully present from the testimony of the honest and incapable man of perjury, from the life and morals of Cecilia, from the sentence of adultery and divorce, from the testimonies of all the witnesses, even those of the man's seventh hand, concerning whose sincerity the defender himself testifies; and also from

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the testimonies of the woman's witnesses, including those who might have spoken against her. However, it is futile to object that the witnesses do not shed light on the substance of the matter, but only...

[*Latin ed. p. 617*]

BORDEAUX. Approximately in the year 617, considering external circumstances. For it has become evident, through a fact which was previously obscure and intimate, that the act was committed by Caecilia, who perpetrated the shameful deed, as revealed by a communication, at a time not suspected, from herself. Furthermore, he does not consider another objection regarding the dependence of the witnesses to be of any weight. For, besides the fact that many were not in the service of anyone, such as the parish priest of Désévaux, Victor Dévaux, Eugenius Denijat, Stephanus Bertoux, and others, and since all gave their testimony under oath, it would be reckless to accuse them of perjury. Therefore, he concludes that, with a theologian and canonist of the Burdigalensis court, there are serious grounds for nullity in such a marriage.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. Nevertheless, the defender of the sacrament, after considering the reasons for which the investigation in Bordeaux should be held in no regard, points out that the entire opposing action rests upon the testimonies of Clodomirus Buiron, Annae Lourdain, Mariae Carte, and the parish priest of Gioberti, Désévaux, of whom the first two were attached to the Lesbre family, and all, with the exception of one, acknowledged Caecilia only after the third, fourth, or fifth year after the completion of the marriage, and who finally approached the judge in Rheims. Therefore, he believes that, according to what is stated in the Glossa in chapter 26 of "De spons. et matrim.," those who should be heard are those who were present at the marriage and were called as witnesses for that purpose. Among these, the parish priest of Caecilia stands out, stating that consent was given by both parties without any hesitation or condition. Furthermore, the defender observes that, if credence is given to the witnesses brought forward by the plaintiff, Caecilia proclaimed the shameful pact regarding the avoidance of offspring, whether willingly or unwillingly, without hesitation, without any consideration, and without ambiguity. But it is remarkable, he says, that while this condition was known in the town of Bront-Vernet, where the Lesbre family resided, and where Caecilia spent a few months, three years after the marriage, it was completely unknown in the region of Vendresse, where she was born, grew up, and completed her marriage.

[*Latin ed. p. 618*]

618 BORDEAUX. He still resides there. Indeed, Henry Robert, the retired parish priest of Vendresse, who seems to deserve no less faith than the parish priest of Désévaux, has never heard that these spouses gave

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their conditional consent when the marriage was begun. This is also the case with Victoria Didier, born Lapierre, Ernesta Bontemps, and Alexander Hanonnet of la Grange, all of whom reside in the parish of Vendresse. Moreover, he believes that two very prominent women, contemporaries of Cecilia, who are very familiar and intimate with her, should be heard, as they report the same. Furthermore, the advocate points out that the well-known Maria Ludovica Germana Hanonnet of la Grange, who had previously asserted in court, before the judge of Rheims, on May 23, 1892, that the marriage had been truly begun, also stated that there was no agreement regarding the prevention of procreation. Moreover, he observes that, concerning the agreement to prevent procreation, which Cecilia constantly spoke of during the few days she spent in the home of James, Maria neither received anything from Cecilia, her sister, nor from anyone else, during the long interval of thirteen years. However, the advocate believes that these facts must be considered, as they are completely at odds with the accounts given by the witnesses of James. In addition to what the parish priest Robert recounted, he also mentions a letter from the doctor Sidoux, who was treating Cecilia, dated in 1877, in which, among other things, it is written that the doctor found signs of pregnancy, and that these could also be deduced from the testimonies of Alexander Hanonnet and Ernesta Bontemps. Indeed, the defender of the marriage observes that the facts recounted by five witnesses regarding the pregnancy, taken together with the facts recounted by four witnesses brought in by James, as mentioned above, cannot possibly exist simultaneously. For it is utterly impossible that a woman who desires posterity or rejoices in the prospect of a conceived child would hate children and agree with her husband to avoid procreation; therefore, it must be concluded that either the witnesses of Bordeaux or the witnesses of Rheims are deceivers, or, if they are not deceivers, they were necessarily deceived. But, besides the fact that the law of charity forbids us to think that five witnesses would lie rather than four, the –

[*Latin ed. p. 619*]

BORDEAUX. In the year 619, the defender pointed out that the witnesses Buiron, Lourdain, and Carte were, or had been, in the service of the Lesbre family, and that the parish priest Désévaux had confessed that he had received assistance from Monsieur Lesbre for the restoration of the church; whereas, on the contrary, five other witnesses were not moved to testify by the hope of gain, friendship, or enmity. Furthermore, he continues, the servants Anne Lourdain, Mary Carte, Clodomirus Buiron, and the parish priest Désévaux are not only to be considered guilty of a blatant lie by the most upright witnesses, namely, the Reverend Father Henry Robert, Baroness Carola Maria Evain, Alexander Hanonnet de la Grange, Victoria Lapierre Didier, Ernesta Bontemps, and Maud Gilmer; but moreover, what they relate does not appear to be in accordance with the truth. Therefore,

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he recalls what Anne Lourdain, Clodomirus Buiron, and Mary Carte relate concerning the instruments used by Cecilia to prevent conception, and he asks to what purpose these were used if James was faithfully fulfilling his marital duty. It does not seem plausible that Cecilia would have confided in them, because not only James, but also other men of her body, had access to her, and it is hardly conceivable that she, having completed the acts that forbade conception to her husband, would have entrusted these things to outsiders, or that she would have been endowed with such naiveté as to believe that she could predict the effects of congresses held elsewhere by means of sponges, as Anne Lourdain reported having found in the marital chamber. Moreover, he notes that Anne Lourdain and Mary Carte claim that Cecilia was not immune from adulterous embraces, at least during the time she spent in the home of James' parents; and these testimonies are of great importance, because they completely destroy the testimonies that they themselves gave against Cecilia before the judge of Bordeaux. As for the parish priest Désévaux, he recalls that it was reported that, from the beginning of the marriage, the Lesbre family had begun to doubt his suitability, based on a certain agreement; from which it appeared that there had been doubts about the validity of this marriage from the very beginning. But this is entirely alien to the truth, as is demonstrated by the witnesses, who declare that they do not even dream of such a thing.

[*Latin ed. p. 620*]

620 BURDIGALEN. Aliquis dubitavit de valore matrimonii antequam civili lege coniugi separati sunt, sed ex eo quod ipse Iacobus confitetur: se pleniter ad vinctum fuisse. Attamen, omissis contradictionibus testium, vindex matrimonii fingit non deceptorem, sed deceptum fuisse, et Caeciliam illis pactum de eo quod in patria tam alte tacuerat, scilicet horrorem prolis et generationis impediendae, saepe renovaverat, et concludit quod, ita tamen, pactum ita assertum in probatis non existeret. Ad hoc, addit non solum doctrinam Glossae, cap. 26, de sponsa!, et matr. verb. Mulierem; sed etiam tempus suspectum et circumstantias in quibus Caecilia ita locuta fuisset. Verum est, dicit, quod Caeciliam, elapso iam ab hymenaeo duobus vel tribus annis, ad domum socrorum primum profectam fuisse, et tum discordias, contentiones ac simulacra inter Caeciliam et socrum, ac ipsum virum, in eo tempore acerrimas exarsisse, ita ut Caecilia, volente anno 1880, Iacobum ob saevitias et infidelitates ad tribunal rapuerit, sicut in prima causae disceptatione demonstratum est. Similiter, defendit quod Caeciliam, aestivo tempore anni 1877, idest octo vel novem mensibus post initum matrimonium, aegrotasse; et medicus qui illi curationem adhibebat, censuisse: "nescio an desiderandum sit quod mulier praegnans sit." Unde, concludit, si Caecilia his adiunctis constituta, parentibus Iacobi continuo de prole sciscitantibus, eorumque domesticis, ac parocho Désévaux, respondisset: "ego nihil magis odio habeo quam prolem, Iacobus

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promisit mihi, me prolem non suscepturam, ego minime nupsissem, nisi Iacobus ita cavisset," eiusmodi exclamationes haud serio accipiendae essent, neque ea tantum valerent, ut quae solemniter coram civili magistratu, et praesertim in ecclesia, coram parocho et testibus, acta sunt, fiocci facienda essent. Huc praeterea addit, quod si admittamus, Caeciliam tempore suspecto ansam non fuisse inimicis illudere ut ab iniustis vexationibus se redimeret, necessario etiam admitti esset eamdem, pro lubitu, imo in caput proprium, falsa passim, tempore haud suspecto, og-

[*Latin ed. p. 621*]

BORDEAUX. He has testified concerning his relatives, friends, and acquaintances. To prove this, he recalls the testimony given to the parish priest Robert, as well as the accounts given by the doctor Sidoux and the baroness Evain, which are, indeed, inexplicable. However, the defender of the sacrament continues, it is falsely alleged that James, and not Cecilia, are the ones who should be considered unreliable, given the reputation and credibility of both. For, speaking of reputation and credibility, the defender observes that only the witnesses brought forth by James are mentioned, although, from what has been stated above, he believes that these witnesses should be considered suspect. Furthermore, the defender points out that the witnesses brought forth by Cecilia were not questioned regarding their credibility, but rather, because they testify in favor of Cecilia and mention an old friendship and relationship, the defender believes that their testimony completely refutes the claims of the opposing witnesses. Moreover, the defender observes that it is not the Bordeaux witnesses, but rather the actions of both parties that should be considered in determining who is to be believed. Furthermore, James was scarcely able to reveal the names of the woman's witnesses; he hastened to preempt them, as the parish priest Henry Robert and the baroness Evain testified truthfully in writing to the Ordinary of Bordeaux; which Cecilia certainly did not do. Then, according to Leuren, in *De Ecclesiasticis*, book 2, questions 604 and 607, no credence should be given to "one who is not firm in his words," since it is most unbecoming that what someone has clearly and openly protested should, in the same case, be used as evidence to undermine him. Chapter 10, "Per tuas," St. Bede approves. However, as the defender of validity points out in the court of Rheims, James has repeatedly attempted to contradict what he had previously affirmed under oath, while, on the other hand, the defender of the sacrament maintains that Cecilia has never dared to do the same. Finally, after noting the objections raised by the advocate for James, and acknowledging the length of the proceedings, the defender confesses that he does not understand why the Parisian is being cited. The marriage dispensation of March 28, 1857, and of June 20, 1858, are cited, the nature of which, he says, is as different from the present case as heaven is from earth. Rather, he turns to a more recent Parisian marriage, that of January

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31, 1891.

[*Latin ed. p. 622*]

622 BURDIGALEN. In which case, concerning a certain Charles Normand, who before the parish priest and witnesses in the church of Berthae Gautereau had said, "I consent to you," but outside the church, and before and after the celebration of the marriage, had declared that he did not admit the perpetuity of the marriage, and although the court of Paris had issued a judgment for nullity, the Sacred Congregation [Consilium] judiciously responded: "the judgment must be overturned." Therefore, considering that from what has been presented, the invalidity of the marriage has not been proven in any way, it concludes, invoking the authority of the Rota in Decree 149 § 1, before Ratto - there - "When a marriage is contracted before a priest and two witnesses according to the form prescribed by the sacred Council of Trent in session 24, concerning the reform of marriages, chapter 1, and in the very act of celebration, there intervenes the free consent of both parties, all presumption must be given for the validity of said marriage, and no consideration must be given to opposing exceptions, when those are not so compelling and effective as to immediately and conclusively demonstrate the alleged nullity." Having, on both sides, briefly presented the matters according to accepted practice, the question was to be resolved: Does a nullity of marriage exist in this case? RESOLUTION. The Sacred Congregation, after discussion on January 28, 1893, decided to respond: Negatively. E K WHICH ARE GATHERED. I. Conditions seriously imposed against the substance of marriage, so that the matrimonial contract lacks effect. II. Hence, it is not validly contracted if one says, "I marry you, if you avoid having children, or until I find someone else richer in honor or fortune, or if you give yourself to adultery for profit." III. For these conditions destroy offspring, mutual fidelity, and the individual society; in these three consist the substantial goods of marriage.

[*Latin ed. p. 623*]

BORDEAUX. 623 IV. However, these conditions must be formally proven before the celebration of the marriage, so that they may have an effect against the validity of the marriage, for which there is a special favor within the Church. V. It seems that formal proof regarding the presumed condition of avoiding procreation was lacking. CANTON OF TICINI, OR LUGANO. REGARDING THE DEPUTIES OF THE SEMINARY. On January 28, 1893. Through summary petitions. SUMMARY OF THE FACTS. On December 9 of the following year, letters arrived at the Most Holy Congregation of the Council from the titular Bishop of Callipoli and the Apostolic Administrator of the Canton of Ticini, which are as follows: The Council of Trent, in Session 23, chapter IS, concerning reforms, ordered the Bishop to establish, for the temporary administration of the Seminary,

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a council of four deputies; of whom two should be from the Cathedral Chapter, and two from the clergy of the city. The Bishop states that it is easy to select deputies from the canons of the cathedral; but there is difficulty in selecting two from the clergy, since the number of clergy is small; of whom one is a parish priest, and the others do not seem to possess the qualities necessary for this office. Regarding this matter: I. The election of a deputy from the clergy seems to be able to be referred to the assembly of vicars and pro-vicars of this Diocese. II. This election could be carried out by the vicars and pro-vicars through the sending of ballots to the Bishop, who would then request that they consider candidates from the city of Lugano. III. Who is eligible to be chosen? Are we speaking of priests residing in the parishes of Lugano, who are attached to the Seminary, or even of another priest who cares for souls near Lugano, so that he can easily attend the meetings? Synopsis of the Discussion. In order to briefly note some doubts regarding the proposals, it is first necessary to remember that the Council of Trent, in the aforementioned place,

[*Latin ed. p. 624*]

624 In TICINI, sive LUGANEN, scriptum est ut Episcopi omnia ad disciplinam et spirituale regimen Seminarii constituerent "cum consilio duorum canonicorum seniorum et graviorum, quos ipsi elegerint"; et infra, ut "idem Episcopus cum consilio duorum de Capitulo, quorum alter ab Episcopo, alter ab ipso Capitulo eligatur, itemque duorum de clero civitatis, quorum quidem alterius electio similiter ad Episcopum, alterius vero ad clerum pertineat," portionem ex singulis beneficiis pro Seminarii sustentatione detraheret et rerum temporalium administrationem curaret. Ex quibus verbis deduci posse videretur propositum administratoris apostolici ticinensis committendi vicariis seu provicariis foraneis tantum electionem alterius ex deputatis, aperte in ius tridentinum impingere, a quo universus clerus elector in casu constituitur. His accedit quod tueri forsan posset electionem huiusmodi ad unum civitatis episcopalis clerum pertinere, ideoque vicarios foraneos ab ea omnino esse excludendos. Sane licet S. Synodus de electoribus loquens, non addat vocem civitatis* prout addidit cum deputatorum eligendum designavit, nihilominus ob nexum sermonis de uno eodemque clero intelligendus uterque locus videretur. Cui opinioni favere posset difficultas clerum universum colligendi, nec non damnum quod ex parochorum absentia fidelibus obvenire posset, ac tandem agendi ratio S. C. C. quae consuetudinem hanc in pluribus dioecesibus existentem haud improbavit. Verumtamen argumenta non desunt iis qui tenent deputatorum electionem ad totius dioecesis clerum spectare. Ac in primis observandum est universum clerum ad taxam pro Seminario solvendam teneri, atque idcirco totius dioecesis cleri interesse rectam illius administrationem. Ceterum admisso principio "quod ubi lex non distinguit nec nos distinguere debemus," verbum

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"civitas" a "tridentino" secunda tice adhibitum ad clerum civitatis non esset coarctandum. Eo vel magis quia si maxime congruit, ut deputatus eligendus in civitate et prope Seminarium commoretur, haud succurrit ratio cur eadem requirantur in electoribus, qui, attenta de...

[*Latin ed. p. 625*]

The Canton of Ticino, or Lugano, having been considered for a perpetual appointment, it was deemed that they should rarely convene. However, in response to the petition of the Administrator of Ticino, it should be noted that on June 21, 1879, in Buscoducen, a suppliant petition was presented before the Sacred Congregation of the Council, in which, in the second place, the following question was raised: "Since the Seminaries of the Netherlands are not located in the city, but in other places, the two delegates, who, according to the decree of the Council of Trent concerning the clergy of the city, are to be chosen from the city clergy, are often chosen from the remaining clergy: one, indeed, by the Bishop, and the other by the deans, as representatives of the entire clergy. It is asked whether this method of proceeding can be approved and safely maintained," and the response was given: "Regarding the second question: considering the particular circumstances, affirmatively." From this, it would seem that, in certain particular cases, it can be permitted that deans or vicars forane represent the remaining clergy in the election of a delegate. Regarding the second question, it should be noted that, for legal reasons, nominations and elections must be carried out in a collegially convened assembly; otherwise, the election would not be an act chosen by a moral body collectively, but rather would be reduced to the separate votes of each elector, which cannot constitute a morally unified act, as Gregory IX states in Chapter 55 of *De eieci*. Finally, regarding the third question, since, as we have already seen, the Council of Trent prescribes the election of "two from the city clergy," it is clear that those who are not part of the urban clergy cannot be chosen. Nevertheless, from the aforementioned account of June 21, 1879 (1), and from what has been noted above, it might be argued that the intention of the Fathers of Trent was that those who reside near the Seminary, or at least those who can frequently and without inconvenience access the place where the Seminary is located, should perform the duties of a delegate. It does not generally appear to be advisable that moderators and others connected with the Seminary should assume the office of delegate, and thus (1) The account was given in Volume XII, page 492. The matter is also discussed in the same volume, pages 497 and following, regarding the election of delegates for the direction of Seminaries. Also see Clusina and Pientina, Volume XXV, page 405. Acts, Volume XXV, page CCXCVIII, 40.

[*Latin ed. p. 626*]

626 OF THE CANTON OF TICINI, OR OF LUGANO. Sometimes, con-

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trary to the sanctions of law and equity, judges are appointed in their own cause. Indeed, as other matters are passed over, it is known that the Sacred Congregation, in the *Salernitana* book 6, decrees, page 22, in response to the third question, precisely concerning those of the second class: "It is permissible for the Bishop to consult the council of delegates, both concerning the institution, discipline, and morals, as well as the administration of temporal affairs." However, in *Fundana*, on March 26, 1689, in the Official Seminary, the following questions were proposed to the Sacred Congregation: "I. Whether the Bishop can and may appoint the Rector and other officials of the Seminary without the counsel of the delegates appointed by the Chapter?" and "II. Whether the Bishop ought to follow the counsel of those same delegates in the revision and confirmation of the accounts of the aforementioned Rector?" The response was given as follows: to I, "No"; to II, "It is permissible to consult, but not to follow." Therefore, as Pignatellus also teaches in volume 9, consultation 81, it is permissible that the election of moderators and teachers, and the oversight concerning institution, discipline, and morals, be reserved to two delegates of the first class; and that the Bishop be the sole judge and governor in all matters pertaining to the Seminary. Therefore, at least those officials of the Seminary who do not manage temporal affairs, in view of the lack of clergy in the city, might perhaps be chosen from among them. Furthermore, in addition to what has been said in law, the circumstances of the place and the particular circumstances in which the newly established diocese of Lugano is situated should be considered, and it should be determined whether, in the matters proposed by the Apostolic Administrator, some deviation from the strictness of the law might be permitted. Having these things in mind, the question was raised as to how the questions should be answered. RESOLUTION. The Sacred Congregation of the Council, after deliberation on January 29, 1893, gave the following response: To I, II, and III. Considering the particular circumstances, and if these circumstances persist, it is permissible for the Bishop to have the election made by vicars forane, and also through ballots.

[*Latin ed. p. 627*]

627 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS OF COLOGNE, OR LIMBURG. JURISDICTION. Dated February 24, 1893. SUMMARY OF FACTS. Rodulphus R., born in Creseldia, in the Archdiocesis of Cologne, in the year 1865, presented himself in Paris in the year 1865, where he entered the Congregation of the Holy Spirit and of the Most Sacred Heart of Mary, and remained there for three years and a half. Having completed a course in Sacred Theology in the same Institute, on December 19, 1868, he was, by order of the Most Reverend Archbishop of Paris, and while still a novice, promoted to the order of the priesthood, by the authority of a letter of dismissal from the Superior

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General of the Congregation. Having become a priest, considering himself not called to a religious life, on March 31, 1869, while still a novice, he left the Congregation, having obtained permission from the Superior General, by virtue of which he could present himself either in the Dioecesis of his origin, or in another Dioecesis of his own choosing. However, preferring the Dioecesis of Limburg to the Archdiocesis of Cologne, he approached the Bishop of Limburg, requesting to be received into that Dioecesis. Upon receiving such requests, the Bishop responded that he would receive him into his Dioecesis, provided that he presented the letter of dismissal granted to him by the Most Reverend Archbishop of Cologne, and by the Most Reverend Superior General of the Congregation of the Holy Spirit and the Immaculate Heart of Mary. Having obtained the letter of dismissal from the Superior General of the Congregation, the Priest R. again approached the Bishop of Limburg, who received him into his Dioecesis, and appointed him as a chaplain, first in Langenschwalbach, and then in Hadamar.

[*Latin ed. p. 628*]

628 COLOGNE, OR LIMBURG. Truly, a most unhappy Priest, on account of scandalous crimes, on June 13, 1870, was condemned by the judgment of the Court to perpetual suspension and was expelled from the Diocese of Limburg, and thus he began to wander, committing new and daily offenses, while also celebrating Mass, collecting stipends, hearing confessions, and fraudulently deceiving Bishops and pastors. From this disgraceful manner of acting, a controversy arose between the Archbishop of Cologne and the Bishop of Limburg concerning the incardination of Priest R. For the Bishop contended that Priest R., being originally from the Diocese of Cologne, was subject to the Archbishop, and therefore the burden of recalling the Priest from his wandering life and providing for his support belonged to the Archbishop. Conversely, the Archbishop maintained that such a burden belonged to the Bishop, since the Priest was considered to be attached to the Diocese of Limburg by incardination. And since the parties did not agree, the Archbishop of Cologne appealed to the Sacred Congregation of Bishops and Regulars for the resolution of the controversy. A Synopsis of the Arguments: The Archbishop contended that Priest R. had been incardinated in the Diocese of Limburg; and he asserted that this was not only true according to the facts, but also according to the confession of the Bishop himself. With regard to the facts, the Archbishop recalled that the Bishop of Limburg, when requesting the incardination of Priest R., had stated that he himself would receive the Priest into his Diocese, provided that the Priest presented "a letter of dismissal from the Most Reverend Archbishop of Cologne, or from the Most Reverend Superior General of the Congregation of the Holy Spirit and the Immaculate Heart of Mary." With this established, the Archbishop argued as follows: "The condition under

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which the Most Reverend Bishop of Limburg received the aforementioned Priest into the Diocese of Limburg was fulfilled by him. For he presented, as he was ordered to do, the letters of dismissal from the Superior General of the Congregation of the Holy Spirit and the Immaculate Heart of Mary."

ARGUMENT OF THE ARCHBISHOP OF COLOGNE.

[*Latin ed. p. 629*]

COLOGNE, OR LIMBURG. On the 6th of Mary [month], [year]. "With these letters presented to the Most Reverend Bishop of Limburg, it is clearly evident that the incardination was conditionally granted and has fully taken effect." However, it is observed that the Bishop, not once, nor twice, but repeatedly, declared that the Reverend Priest R. had been received into his Diocese, and, in particular, to the Sacred Congregation of Bishops and Regulars, under the date of August 6, 1870, he stated: "When the Sacred Congregation inquired: 'Has the Reverend Father R. been incardinated in the Diocese of Limburg?' the Bishop responded on August 18: 'With regard to the question of whether Rodulphus R. has been incardinated in this Diocese of Limburg, the affirmative must be answered.'" Secondly, when he gave letters to the same Priest, who had requested to go to Rome in order to do penance in some monastery or religious house, assuring him that he had been received into the Diocese of Limburg: "Rodulphus R., a Priest born in the Metropolitan Archdiocese of Cologne, ordained by the Archbishop of Paris, and received into our Diocese last year... is subject to the penalty of perpetual suspension..." Thirdly, he insists that he stated the same thing again, when, on June 28, 1878, sending dismissal letters to the Abbot of the Trappist monks in Nottingham, he called the aforementioned Priest a member of his Diocese, writing: "The unfortunate Priest of my Diocese, D- Rodulphus R., approached me a few days ago, begging me to simply dismiss him, using a certain form written by himself, for your consideration." Based on these facts, the Archbishop of Cologne concludes: "Rodulphus R. was fully incardinated in the Diocese of Limburg in the year 1869." Nor does the Archbishop of Cologne contradict this, but rather fully agrees with the Reverend Father Procurator General of the Congregation of the Holy Spirit and the Immaculate Heart of Mary, who asserts that the Priest Rodulphus R. was truly incardinated in the Diocese of Limburg, and therefore the burden falls upon the Bishop of Limburg to put an end to his wandering life, and to provide him with the supports of life.

[*Latin ed. p. 630*]

630 COLOGNE. OR LIMBURG. Whether it is permissible for the Archbishop of Cologne to impose such a burden, since the aforementioned priest is native to his own diocese. If the Reverend Procurator General

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observes that the Reverend R., because he had been received into the Congregation of the Holy Spirit, no longer belongs to the diocese from which he originated, but, by virtue of his admission, is subject to the jurisdiction of the Superior General of said Congregation. Nor can it be presumed that the contested excardination was unsuccessful, simply because the document pertaining to the excardination is no longer found. Indeed, the Reverend Procurator refutes this objection, affirming that, although it is not strictly necessary to request excardination from the place of origin for those who have entered a religious congregation while still laymen, and a simple permission is required for clerics; nevertheless, such excardination is always customarily requested. In this matter, he continues, it was certainly requested for the Reverend R., and it must be admitted without any doubt that the aforementioned priest no longer belongs to the diocese of his origin, even if a document pertaining to such an excardination is not found in the present circumstances. From the foregoing, it becomes clearly manifest that the Reverend R. has been excardinated from the Archdiocese of Cologne and received into the Diocese of Limburg; therefore, it is the Bishop of Limburg, and not the Archbishop of Cologne, who should restore the priest to good standing and provide him with appropriate support.

RIGHTS OF THE BISHOP OF LIMBURG. On the other hand, the Bishop of Limburg maintains that the Reverend R. is still subject to the Archdiocese of Cologne, and therefore insists that no arguments should be admitted by which the Archbishop seeks to demonstrate that the aforementioned priest has been incardinated in the Diocese of Limburg. And this is because, it is clear, the Reverend R. has not complied with the conditions imposed upon him by the late Bishop of Limburg, by which he was to be assigned to that diocese.

[*Latin ed. p. 631*]

COLOGNE OR LIMBURG. 631. Indeed, he says, the Bishop of Limburg had promised the Reverend Father R. that he would receive him into his Diocese, but with the condition that the priest should present a letter of dismissal from the Most Reverend Archbishop of Cologne, or from the Reverend Superior General of the Congregation of the Holy Spirit and the Immaculate Heart of Mary. And he stated that this condition had been imposed upon him for this reason, because it was not known whether he was incardinated in the Archdiocese of Cologne, or in the Congregation of the Holy Spirit. Furthermore, the Bishop asks, what did Father R. do in order to be assigned to the Diocese of Limburg by the Bishop? He presented letters of dismissal from the Superior General of the Congregation of the Holy Spirit, in whose Institute he was not incardinated, because he had not made his religious profession there; but he did not present the letters of dismissal from the Bishop of origin, or from the Archbishop of

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Cologne, in whose Diocese he had remained incardinated, because he had been dismissed from the Congregation of the Holy Spirit before making his profession. Therefore, since, in fact, Rodulphus was not incardinated in the Congregation, but in the Archdiocese of Cologne, he should have presented a letter of dismissal from that Archdiocese, in order to be received into the Diocese of Limburg, or, alternatively, to have the reception, which was conditionally granted on May 8th, made absolute. For letters from any ecclesiastical superior, by which he does not intend to dismiss someone subject to him, neither exempt him from the jurisdiction of his legitimate superior, nor authorize another prelate to validly dismiss his subject in this manner. Hence, the Bishop concludes, the reception into the Diocese of Limburg, conditionally granted, never became real, because the condition was not fulfilled. And do not say that Father R. was truly incardinated in the Diocese of Limburg, because the Bishop of Limburg admitted him to the care of souls in his Diocese. Indeed, the Bishop observes, the simple exercise of the care of souls is by no means sufficient for a priest to be incardinated in a foreign Diocese, but it requires, in addition to the letters of dismissal from his own Bishop, express consent, and an absolute...

[*Latin ed. p. 632*]

632 COLOGNE, OR LIMBURG. The matter of the acceptance of a Bishop, in whose Diocese he wishes to be received, as determined by the Most Holy Congregation of Bishops and Regular Canons on March 26, 1886, in Rottemberg, is clearly established. Furthermore, another argument derived from letters of recommendation given to the Reverend Father R. on June 14, 1870, by the late Bishop, in which it is asserted that the aforementioned priest had been assigned to the Diocese of Limburg, is of no consequence. For these words do not necessarily signify reception through incardination; for one can certainly be received into a Diocese, and be called to it in that certain sense, to whom the care of souls is entrusted in that Diocese, without being formally incardinated. Nor are other dismissal letters of June 28, 1878, sent to Father Abbot St. Bernard of Trapp in England, in which the Bishop of Limburg calls Rodulphus a priest of his Diocese, to be given greater weight. For this occurred, he says, because that Bishop at that time resided in Bohemia and could not examine the records. This certainly would not have happened if the Bishop had been able to examine the records. And this is most clearly evident from the fact that when the transmission of those dismissal letters in the city of Limburg became known, and the Bishop's series of actions was brought to mind, he immediately, by letters dated July 12, 1878, most earnestly requested the Abbot to immediately burn those dismissal letters given to the Reverend Father R. Finally, the Bishop maintains that the response given by his predecessor to the Most Holy Congregation of Bishops and Regular Canons on August 6, 1870, namely that the Reverend Father R. had been assigned to his Diocese, does not

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invalidate the thesis supported by the Archbishop of Cologne. For, he says, the aforementioned predecessor, adhering to the tenor of the dismissal letters of the General Congregation of the Holy Spirit, falsely believed that the Reverend Father R. belonged to the Congregation of the Holy Spirit as a true member or, in truth, as a subordinate. Therefore, considering these matters, the predecessor responded to the Most Holy Congregation of Bishops and Regular Canons regarding the incardination of Rodulphus, stating that he was in the Diocese of...

[*Latin ed. p. 633*]

COLOGNE, OR LIMBURG. In the year 633, it is stated that Limburg was incorporated into the Archdiocese. However, as time has progressed, it has become apparent that Rodulphus was not a member of the Congregation of the Holy Spirit, nor was he subject to it. Consequently, it follows that Rodulphus's incorporation, which only pertained to the dismissal by the Superior of the Congregation of the Holy Spirit, had no place and that the response of the deceased Bishop was erroneous. However, whatever the matter may be defined, the Bishop observes that the origin of all the evils lay in the fact that the Superior General of the Congregation of the Holy Spirit promoted Rodulphus to the sacred orders. Therefore, he demands that the Superior General answer for the priest R. and take care of him. This is not only because, in the dismissal letters of May 14, 1869, the Superior acted unjustly towards Rodulphus, but also because the Congregation has so many houses, both in foreign lands, and in these houses so many different duties to be performed, that it is easily, or at least more easily, possible to provide for Rodulphus in a more fitting manner than in the Archdiocese of Limburg. With these matters brought to light, the Bishop concludes that Rodulphus is neither incorporated into the Archdiocese of Limburg, nor is he suited to fulfill his duties in a manner that would bring forth better fruit. After considering both of these points, the following question was proposed: Who is responsible for setting a limit to the wandering life of the priest R., and for providing him with sustenance? RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, after mature examination of the matter, decided to respond on February 24, 1893: Affirmatively, to the Archbishop of Limburg.

[*Latin ed. p. 634*]

634. CONCERNING COLONIA (OR LIMBURG). FROM WHICH ONE MAY GATHER THE FOLLOWING:

I. Incardination is granted under a condition; once the condition is fulfilled, it takes full effect and is converted into an absolute incardination.

II. By virtue of incardination, the priest no longer belongs to the diocese from which he originated, but is subject to the jurisdiction of the Bishop in whose diocese he has been received.

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III. Therefore, the burden falls upon the Bishop of the diocese in which the priest has been incardinated to provide for the priest's needs in life and to put an end to his wandering life.

IV. However, for a priest to be considered incardinated in a foreign diocese, besides the dismissal letters from his own Bishop, the consent of the accepting Bishop, in whose diocese he wishes to be received, is required.

[*Latin ed. p. 635*]

635 X. DECRETUM SACROSANCTAE CONGREGATIONIS SUPER DISCIPLINA REGULARI: Prescriptions concerning young men from religious families who are subject to military service. Dated 27 November 1892. The Most Holy Congregation, ever attentive to the good of Religious Institutes, cannot neglect those young men who are undoubtedly the fairest hopes of these Institutes; therefore, with the authority granted to it by the Holy Father, it confirms the Apostolic Constitutions which have been issued concerning the ordinary life of these Institutes, as the time has come, and it gives the following special prescriptions to the Generals of those Institutes whose members are subject to military service:

1. For those who belong to the first category, and who cannot be certain of being exempted, the solemn profession and the admission to the Holy Orders must be postponed until after they have completed their active military service for one year, or for whatever other time is necessary.

2. It is highly advisable to encourage those who wish to serve in the military for one year; indeed, it is also advisable to provide financial assistance to needy young men, either in part or in whole, according to the means available to each Institute, so that they may be able to pay the tax required by the government, and other expenses during their service.

[*Latin ed. p. 636*]

PRECEPTS 636: It is fitting that such assistance be given solely to young men of good hopes, so that, having fulfilled their assigned duties, they may be able to provide for themselves; but such subsidies should only be granted to young men of the best hopes, who have been docile and obedient.

3°. It is advisable that, before undertaking voluntary service or military service freely accepted, whether of greater or lesser importance, they first complete a course of spiritual exercises for at least ten days, under the guidance of a spiritual director, and have made some progress in theological studies (after having completed the regular course of other studies), so that they may be more firmly grounded in religious ideas and in the religious institution.

4°. In order that young men may more easily preserve their vocation and correspond with it in their conduct, in addition to salutary admonitions, the frequent use of the Sacraments, the reading of good books, it

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is fitting that they be directed to the Ecclesiastical persons designated by the Ordinaries of the places, for their spiritual development; and these will not fail to render, in the best possible way, the most useful service to the conscripts, and according to the circumstances. Furthermore, the Superiors of the Order, both General and Provincial, will be charged to account to the praised Ordinaries for their subjects, indicating the whereabouts of the same, and recommending their vigilance.

The Ordinaries, for their part, will instruct the Provincials to report to them the priests to whom the young men should turn.

[*Latin ed. p. 637*]

PRECEPTS for conscripts. At each change of station, the young men are obligated to give similar information to the Provincial Father, and to report to him, as far as possible, the course of their lives. If, during their service, they have a few weeks of leave, they must, for at least three days, dedicate themselves to spiritual exercises. It is unnecessary to say that in cities where there are houses of the Religious Order, the Provincials can appoint one of their religious to take care of the spiritual welfare of these conscripts; but the obligation to inform the Ordinary of the place of the young men who are going to perform military service in his Diocese always remains.

5°. Those who, after completing their military service of one year, or a longer period, persevere in the holy vocation, and it is evident from their good conduct, will be received back into the Order, where, first of all, they will dedicate themselves to a course of spiritual exercises, and they will not be promoted to solemn profession, nor to the Holy Orders, unless after a sufficient time, not less than one year, so that in the meantime they may give proof of *domicilium patefacientes*; and these same Bishops will exhort them to diligently watch over them: and the Provincial Presidents will, in turn, indicate to the Priests to whom the young men must have recourse. Whenever a change of station occurs, these young men are bound by a serious duty to inform the Provincial President of this matter, and to reveal, as far as possible, the course of their lives. If, while engaged in military service, any of them are granted leave for a week or more, they must, at least for three days, withdraw to dedicate themselves to pious exercises under the guidance of a spiritual director. It is, however, to be noted that in those places where there are monasteries of the Order, the Provincial Presidents can appoint a priest from among their own members to take care of the spiritual welfare of these young men; but they are not exempt from the obligation of promptly informing the local Bishop of the young men who are entering into military service within his Diocese.

5°. Those who, after completing a course of military service of one year or more, have persevered in the intention of pursuing a life in the Church, and it is certain from their conduct that this is the case, will be received again into their religious order; where, above all, they will withdraw to

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dedicate themselves to pious exercises; and they will not be promoted to solemn profession, nor to the Holy Orders, unless after a sufficient time...

[*Latin ed. p. 638*]

138 Those who demonstrate signs of stability in their vocation, shall resume their sacred studies, and, during this time, either in the Professed area or in some other place of strict observance, under the direction of a Religious, grave in age and in character, suitably appointed for this purpose, shall give evidence of their virtue. The utmost caution must be exercised with regard to those who, instead of volunteering, have performed the ordinary service for a longer period. Those who have served for at least one year, shall be promoted, so that in the meantime they may demonstrate a specimen of steadfastness in their purpose, and undertake again the cultivation of sacred studies: and at the same time, in that part of the monastery which is called the Professed area, or in another ascetic place of perfect observance, under a Religious Master, grave in age and respectable in character, to whom this task has been entrusted, they shall exhibit proofs and evidence of their virtue. But the greatest care must be taken with regard to those young men who have not, indeed, voluntarily given their name to the military service for almost a year; but who, compelled by law, have served for a longer period and received stipends. For all, testimonial letters from the diocesan ordinaries will be necessary, in whose territories they have resided for at least three months. The prescriptions of the Sacred Canons must always be strictly observed, with regard to those who present defects leading to irregularities, for which Pontifical dispensation must be sought in each individual case. For all those, whom they call "testimonial," letters given by the Bishops, in whose dioceses they have resided for at least three months, will be necessary: saving and maintaining intact the prescriptions of the Sacred Canons with regard to those who exhibit outstanding bodily vices, from which, as they say, irregularities arise, for which Pontifical dispensation must be sought in each individual case. 6°. Those precautions which are prescribed above in §. 4, shall also be observed with regard to those who, after their Profession, or after receiving the Sacred Orders, have been recalled to military service for a considerable time. 7°. Finally, if exceptional and unforeseen cases should occur, the Generals of the Orders shall—

[*Latin ed. p. 639*]

PRESCRIPTIONS issued by this Sacred Congregation concerning analogous instructions and exemptions. Rome, November 27, 1892. 639 Bishops must turn to this Sacred Congregation, so that they may be instructed as to what is to be done, and if anything is to be exempted from the common law, it may be appropriately exempted. Given in Rome, on the twenty-seventh day of November, in the year of Our Lord 1892. I. CARD. VERGA, Pre-

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fect. I. CARD. VERGA, Prefect. GIUSEPPE MARIA Arch. of Ces. JOSEPH MARIA Archbishop of Caesar, in Pontus, Secretary. FROM THE SACRED CONGREGATION FOR RITES. QUEBEC. Decree of beatification and canonization of the venerable servant of God, Francis of Montmorency-Laval, the first Bishop of Quebec. To the Most Reverend Father Francis Xavier Cazenave, General Procurator of the Paris Seminary for Missions to Foreign Lands, appointed Postulator for the cause of beatification and canonization of the Venerable Servant of God, Francis of Montmorency-Laval, the first Bishop of Quebec. To His Eminence and Most Reverend Cardinal Lucidus Maria Parocchi, Bishop of Alban, Relator in the Ordinary Congregation of the Sacred Rites Congregation, who, having convened a meeting at the Vatican on the date indicated, proposed the following question: "Whether the opinion of the Illustrious Delegates appointed by His Eminence and Most Reverend Cardinal Archbishop of Quebec, concerning the aforementioned cult of the Venerable Servant of God, which is not prohibited, or concerning the preparation of Decrees in accordance with the blessed Urban VII, Pope, is to be confirmed in a valid and effective manner for the purpose in question?" Furthermore, the Most Reverend Fathers entrusted with the preservation of the sacred rites, after duly considering all matters and having heard the voice and written opinion of the Reverend Father Augustine Caprara, Promoter of the Holy Faith, judged it fitting to respond: "Affirmatively, that is, the opinion is to be confirmed." January 14, 1893. The following was subsequently done, and I, myself, the Cardinal Prefect of the Sacred Congregation for Rites, have signed it.

[*Latin ed. p. 640*]

640 By order of Our Most Holy Lord Leo XIII, Pope, His Holiness approved and confirmed the decree of the Sacred Congregation itself on February 4th of the same year. CAL CARD. ALOISI-MASELLA, Prefect. L. S. VINCENTIUS NUSSI, S. R. C., Secretary.

M O N O P O L I T A N A: To the Sodalitas of the Third Order of St. Dominic, precedence is granted over all lay confraternities. March 27, 1893.

The moderators of the Third Order of St. Dominic, duly established in the place commonly called FasanO, within the boundaries of the Monopolitana Diocese, with the consent of the Most Reverend Ordinary, humbly submitted the following question to the Congregation of Rites for a suitable solution: Does the Sodalitas of the Third Order of St. Dominic have the right of precedence in processions, even on the feast of the Body of Christ, over any lay confraternities, even those called from the Most Holy Sacrament?

And the Sacred Congregation, considering the report of the undersigned Secretary, and upon the earnest vote of another of its Consultors, decided that the aforementioned question should be answered as follows: Affirmative; provided that the said sodalitas enjoys the privileges of the Third Order and proceeds together in a collegiate manner.

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And thus it was decreed on March 27, 1893.
CAIETANUS CARD. ALOISI-MASELLA, S. R. C., Prefect.
L. S. VINCENTIUS NUSSI, S. R. C., Secretary.

[*Latin ed. p. 641*]

TO THE MOST HOLY CONGREGATION OF THE COUNCIL OF COLONIA. A QUESTION CONCERNING MARRIAGE. Dated March 18, 1803. Session 2, page 1. SUMMARY OF THE CASE. The Ordinary of Posen reported on May 22, 1809, as follows: "In the city of Posen, within the Kingdom of Prussia, where there are many parishes, it frequently happens that betrothed couples, having abandoned their own parish without informing their proper pastor, reside for a time in another parish within the same city, and then, falsely claiming to belong to that parish, they fraudulently contract marriage there. When the pastors of the city discovered this deception, in order to prevent future invalid marriages, they generally agreed among themselves that, whenever the aforementioned deception was repeated by the betrothed couples, they, as delegates of their own pastors, could validly assist in the marriage of such couples. Now, however, they have a doubt as to whether they truly have the power to grant each other such a general delegation, and they have approached the General Vicariate, so that the latter might grant to all the pastors of the city of Posen the power to validly assist in the marriages of all the parishioners of the aforementioned city, in cases in which the latter falsely claimed to belong to their parish." "The General Vicariate, however, harbors doubts regarding the introduction of such a practice, and regarding the competence that belongs to it in this case, as well as regarding the practice that has been observed for many years, without the knowledge of the local Ordinary, by the pastors of the city of Posen, and therefore, it implores the Holy Congregation to declare: 'a) What should be held regarding the practice of the pastors of the city of Posen, which is still observed, of generally delegating each other, for an indefinite period, to assist in the marriages of betrothed couples who falsely claim to reside in their parish? 'b) If this practice were not approved, would the General Vicariate be competent to generally grant to the pastors of the city of Posen the power of which we speak?'"

[*Latin ed. p. 642*]

642 COLOGNE. "c) If the aforementioned practice were deemed unsuitable, may Your Eminence deign to validate all marriages that have taken place up to this point, by virtue of this practice, which were begun invalidly." After careful consideration, the response was issued on July 20, 1889: "Regarding past cases, for the purpose of validation: the aforementioned practice is not to be considered suitable, but rather, a valid delegation must be required in each individual case." This response, having

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been communicated to the Archbishop of Cologne, prompted the following inquiry from the Sacred Congregation of the Council: "In this city of Cologne, where there are nineteen Catholic parishes and approximately 150,000 Catholics, it frequently happens that a bride, for example, a servant girl, after making announcements, leaves the parish in which she resides, without informing her own pastor, and yet, before this pastor, she fraudulently contracts marriage, claiming that she still resides in that parish, where the announcements were made." "Therefore, in order to prevent invalid marriages in this city, the pastors of this city, many years ago, have mutually delegated their authority in the following manner: that the pastor who, at the time when the announcements were requested, was the bride's proper pastor, may, for a period of three months, assist in her marriage, even if the bride, having left that parish, resides in another parish of this city at the time of the marriage. This agreement, having been made with the authority to delegate, was subsequently confirmed by my predecessor, Cardinal Melchers, in the year 1866, and this confirmation appears to constitute a delegation from the Ordinary. Although, after I assumed the governance of this Archdiocese, a similar confirmation or approval of this practice was not immediately sought, the pastors of Cologne have nevertheless followed it." "Similar circumstances existed in the city of Aix-la-Chapelle from time immemorial, as the pastors assert, according to which custom, due to frequent changes of residence on the part of servants, laborers, and the poor, the pastor in whose parish the bride resides, while the announcements are being made, may assist in her marriage, even if the bride, at the time of the announcements, has moved to another parish of the same city." "This custom, renewed by the pastors of Aix-la-Chapelle in the year 1840, was approved by the archdiocesan vicargeneral on November 14, 1840, as being favorable to the validity of marriages. This arrangement is certainly useful, and the validity of marriages is often preserved through it." "However, on July 20 of this year, the Sacred Congregation of the Council, in the case..."

[*Latin ed. p. 643*]

COLOGNE. 643 To the Bishop of Posen, it was declared that a similar agreement among the pastors of Posen was not to be approved. His Eminence is earnestly requested to declare: "1. Is it permissible for the Ordinary of the city of Cologne and other populous towns to grant to the pastors of those places, with the power of delegation, a general faculty to assist at marriages? And if so, to what extent? " And further: "2. His Eminence is requested to grant the Archbishop the faculty to allow such a delegation to assist at marriages, so that the pastors of the city of Cologne and other populous towns within the Archdiocese of Cologne may be able to grant such a delegation to others. " 3. His Eminence is also earnestly requested to kindly grant a remedy for any marriages that, through this practice and agreement, may have been validly contracted in this Archdiocese of Cologne, so

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that they may be validly ratified. " On September 6, 1890, this was proposed and rejected with the response: "The opinion of two consultors shall be sought." In the preceding page, it had been observed that the necessity of a general delegation among pastors was not entirely clear, since it seemed that, in order to prevent servants, mercenaries, and others of that sort from contracting marriage without proper inquiry due to a sudden change of residence, it would suffice to have the pastor inquire, either the day before or on the day of the wedding, where the parties actually reside, and to warn them of the gravity of the matter; and if fraud is detected, to either refer them to their own pastor, or, after obtaining express and special permission from their own pastor or the Ordinary, to perform the marriage themselves, according to the circumstances. However, after carefully considering this, the Most Reverend Archbishop of Cologne added the following on December 5, 1890, so that the particular circumstances of the places and the accepted customs might be more fully known to the Most Reverend Fathers: "1. It will often be impossible to inquire of the parties about their place of residence the day before the wedding, since they often come to the church only on the day of the wedding to receive the sacraments and contract marriage, and they would be very upset if the marriage were postponed in order to inquire of their own pastor. " 2. There is a danger that the parties may lie in order to delay the marriage and avoid expenses, especially when they are already present in the church with witnesses, ready to contract marriage. "

[*Latin ed. p. 644*]

644 COLOGNE. "3° Indeed, sometimes, in good faith, they may be mistaken concerning the domicile, since those who consider the civil domicile, which is established by declaration before a civil magistrate and does not yet involve actual residence, to constitute also an ecclesiastical domicile for contracting marriage. " "4° When, in order to contract marriage before the Church, they present themselves only after having already entered into a civil marriage, there is reason to fear that the spouses, if the parish priest delays the marriage for which everything is prepared, may be satisfied with the civil marriage alone and withdraw. " "5° In mixed marriages, which, alas, are more frequent in these regions, there is also reason to fear that the spouses, before consenting to a dispensation, may approach a heretical minister to contract marriage before him, in which case the salvation of the children would be in the greatest danger."

Synopsis of Discussion.

OPINION OF A THEOLOGIAN.

Since there are two doubts: I. "Whether a mutual and general delegation (of parish priests for assistance in marriages), about which we have heard

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(from the Archbishop of Cologne), is valid in this case for the validity of the marriage." And, to the extent that it is negative: II. "Whether it is necessary to petition the Holy See for the validation of this practice with regard to the future in this case;" it will not be amiss, before a canonical response is proposed, if this practice or custom, concerning whose legal value we inquire, is more precisely defined. This will be done with greater clarity and usefulness if it is briefly indicated in what respects the practice of the parish priests of Cologne and Aix-la-Chapelle differs from the practice of the parish priests in the city of Posen, which was disapproved by the Sacred Congregation of the Council on July 20, 1889.

I. TYPES OF AGREEMENT.

Nineteen parish priests of Cologne and eight parish priests of Aix-la-Chapelle have mutually and generally delegated to each other for assistance in the celebration of marriages, with the following limitations: I. Not any parish priest was delegated, but "he who, at the time when the banns were requested, was the proper parish priest of the bride" (Supplice Arch. Colon., fol. p. 3); for in the Archdiocese of Cologne, there is an ancient and praiseworthy custom that only the parish priest of the bride is competent for the orderly and proper, but not for the valid, celebration of the marriage. Cf. Archiv. iur. eccl. tom. 64, p. 246. This is different in the...

[*Latin ed. p. 645*]

COLOGNE. 645, Posen. For, as it is clear from folio p. 1, there, after the betrothed have already moved their residence to a new parish, they "nevertheless proclaim themselves" in the old parish; and in the city of Posen, that restriction of delegation to only the parish priest of the bride is not found. Therefore, to use canonical terms, the Cologne parish priests become competent "in matters not yet fully complete" through delegation, that is, if at the time when the betrothed were truly and properly subjects of their parish, they legitimately requested the ministry of their own parish priest through a formal and explicit petition for proclamations (cf. Feije, *De imped. et disp. matrim.*, n. 253) before the move of residence, so that the parish priest has already affixed his hand to the celebration of the marriage; but in the city of Posen, the parish priest of the former residence remained competent in matters fully complete, and after a petition for proclamations has been made after the change of residence. II. That mutual delegation in the city of Cologne was limited for a certain time, namely: "from that time [i.e., from the time the petition for proclamations was made], it may assist in that marriage for three months, even if the bride has left this parish and resides in another parish of this city at the time of the marriage." (Suppl. Arch. Colon., in folio p. 3). That time, unless all are mistaken, seems to have been established, since, according to

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the Roman ritual, marriage announcements must be renewed two months after the last proclamation, a law from which, as German canonists testify, the Cologne Archdiocese is not exempt, although in other dioceses, only after four months, and according to Instruction Em. Card. Rauscher for the Austrian Empire § 74, after six months at the earliest, is renewal required. However, in the city of Posen, such a time limit is added to the mutual delegation. III. In the Cologne Archdiocese, the authority of the Ordinary intervened in establishing that practice. "That convention [of the Cologne city parish priests] was made many years ago, and, with the power of delegation granted by my predecessor, Em. Card. Melchers subsequently confirmed it in the year 1866, and that confirmation seems to indicate the delegation of the Ordinary. Although, after I assumed the governance of this Archdiocese, a similar confirmation or approval of this practice was not immediately sought, the Cologne parish priests nevertheless followed it. For similar reasons, in the city of Aix-la-Chapelle, there has existed, as the parish priests assert, from time immemorial, a custom, according to which, due to frequent ha-

[*Latin ed. p. 646*]

646 COLOGNE. Regarding the change of residence of a bride, whether she be a servant, a hired worker, or a poor woman, the parish priest in whose parish the bride resides, while seeking proclamations, may assist at her marriage, even if the bride migrates to another parish within the same city during the time of the proclamations. This practice was renewed by the parish priests of Aix-la-Chapelle in the year 1840, and the Vicar General of the Archbishop approved of it on November 14, 1840, considering it favorable to marriages. "Indeed, such a provision is certainly useful, and often saves the value of marriage." Thus far, Supplement to the Archives of Cologne, page 3. The situation is quite different in practice within the province of Posen. It appears that this practice was introduced recently, moreover, without the intervention, approval, or delegation of the Ordinary, but merely through a private agreement among the parish priests, with no public record made of the matter, so that the successors of the parish priests may not have known that such permission had been granted, nor intended to grant similar permission to other parishes in the province. Finally, no mention is made of the faculty granted, even of delegating it. Therefore, all of this practice in Posen was, for some time, irregular, confused, and exposed to the danger of improperly assisting at marriages. These dangers seem to be more remote if, by the statute of the Bishop or by a provision of the law, the parishes are given the delegated faculty of assisting, even with the right of delegating, as was done in the province of Cologne. Finally, it is clear, from the very wording of the Supreme Council, that the two cases are entirely distinct. For if the same judgment is to be given in similar cases (cf. chapter 19, X, on sentences and judicial matters,

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II.-27), then in the case presented by the Archbishop of Cologne, the same answer would have been given as in the case of Posen; but the Supreme Council did not repeat the previous judgment, nor did it respond: "Let a decree be given in the case of Posen," nor did it use any similar formula, but it replied: "Delayed, etc." Therefore, it seemed to be of the opinion that the circumstances and conditions of the two practices were so distinct that the same legal response could not even be given, at least not through a definitive and authoritative judgment, in the case of Cologne.

II. CANONICAL RESPONSE. PRELIMINARY OBSERVATIONS. Since the question is raised as to whether "in this case" the mutual and general delegation of the parish priests is valid.

[*Latin ed. p. 647*]

COLOGNE. 647. In Cologne and Aix-la-Chapelle, it seems that the very *forma* itself tacitly suggests a doubt, and that the difficulty arises solely from the value of that delegation. However, as it is clear from chapter 16, X of the decrees (III. 31): "Many things are prohibited which, if done, acquire the strength of validity." Cf. also Suarez, *De legib.*, book V, chapter 25. This principle of law is also of practical importance in this matter. For it is possible to enumerate many delegations of assistance in the celebration of marriage, which are rightly condemned as illicit, but are not invalid. Thus, for example, on page 6, the response of the Sacred Congregation, dated June 15, 1586, states that it is "sufficient" for the validity of a marriage, to which another priest has assisted, by virtue of a license granted by the parish priest to the contracting parties to use any priest of their choice. Also, in the case of Compost, St. Lucen, when the Vicar General, after receiving no notification, also gave permission to any priest to assist at that marriage, the Sacred upon its decree dated September 19, 1744, responded: "It must be understood that the validity is confirmed, with renewed consent, for caution's sake." These last words clearly were added because of another difficulty that arose in the same case. However, from these two documents, no one can certainly conclude that the Sacred Congregation approved that vague and indefinite license granted to any priest, even as a lawful one; for Feije rightly writes, *De impedim. et disp. matrim.*, n. 297: "A license is valid to contract before any priest whom the contracting parties may prefer; but it is highly to be disapproved." On the other hand, if the lawfulness of the delegation to assist at a marriage is denied, it cannot be concluded that the delegation itself is also invalid. Therefore, the Sacred Congregation, in the cases of Bosanen, November 28, 1789, and Turiton, December 19, 1795, declared the assistance of certain coadjutors or assistant pastors to be illicit, but valid, because it was done by virtue of an unlimited power granted by the parish priests to the coadjutors, contrary to the diocesan statutes. Consequently, in the manner of speaking customary to the Sacred Congregation in the two cases just cited, it is necessary to formulate the doubt

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more distinctly: Whether that assistance is valid and lawful in this case. At least three answers can be given to this question: a) Negatively to both. b) Affirmatively to the first, negatively to the second. c) Affirmatively to both, or with the addition "according to the manner." Furthermore, it must be carefully noted that the Archbishop of Cologne did not only request an interpretation of the Tridentine canon beginning with "Although," which gives *forma* to future proceedings, but a general legal norm, which, if contrary to the validity of practice,

[*Latin ed. p. 648*]

648. COLUMN. It is given to the ecclesiastical court of Cologne and Aix-la-Chapelle to decide, and such a decision, by its very nature, involves a declaration of the nullity of many marriages already contracted. However, the Sacred Congregation of the Holy Office, even when dealing with the validity of a single marriage, and when the arguments for nullity are not entirely certain and conclusive, consistently responds: "It does not appear that the marriage is null." Therefore, all the more so, if the arguments against the validity of the marriage are not absolutely decisive, the interpretation should be given in favor of its validity rather than its nullity, lest many marriages be declared invalid. Indeed, "nullity and invalidation of an act, which is valid according to natural law, is odious, because the aforementioned law corrects and therefore should not be established without a clear text of the law or an urgent reason." Schmalzgrueber, *Jus ecclesiast.*, book I, title 40, on these matters, section 21. Furthermore, the causes for the validity of marriage are considered more favorably in law, as is evident from chapter 26, X, on sentences and judicial matters (II, 27). Therefore, unless conclusive reasons are proven, the law invalidating the marriage must, of necessity, be interpreted in favor of the validity of the marriage, and the sentence of the ecclesiastical judge, as well as a mere interpretation of the law, must follow this principle. Finally, it is generally considered odious in law for a law to apply to past actions. For Gregory IX, in chapter 13, X, on constitutions (1, 2), declares concerning a constitution issued by him: "It is not to extend to past events, but only to future ones. Since laws and constitutions are intended to give form to future affairs, they are not to be applied to past actions, unless a specific provision is made for past actions." A too rigid interpretation of the law, which would apply to past actions, would incur the odium of such a law, as has been explained above, due to the potential nullity of many marriages. It should not be thought that the matter is concluded if the doubts of the Most Reverend Archbishop are resolved. Soon, perhaps, other doubts from other cities in Germany will arise, where similar practices exist. Thus, for example, in the ritual of Vienna (edition of Vienna, 1774), concerning marriages within the boundaries of the city of Vienna, the following is stated: "If either the bridegroom or the bride, for a period of three weeks, resides in a foreign parish, even if with the intention

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of remaining there, the marriage must be celebrated not in the new parish that the bridegroom or bride has entered, but in the parish from which they last departed; unless, however, the couple, for private reasons, wish to be married in the newly entered parish, this will only be permitted if a prior license is produced from the former parish priest." Laurin, who is now a professor of canon law at the University of Vienna, opposes the theory of domicile in that Viennese ritual.

[*Latin ed. p. 649*]

COLOGNE. 649. The Cathari, indeed, rightly present their objections in the Archive of Ecclesiastical Law, volume 26, page 218, but they do not dare to call into question the validity of the assistance given by the parish priest to a deserted home, because, at least indirectly, the delegation of the Bishop is contained in the Viennese ritual, and from the Council of Trent, Session XXIV, chapter 1, concerning the reform of marriage, such a delegation is permitted to the Bishops "with the license of the Ordinary." Perhaps someone will say that, in order to remedy the inconveniences arising from the invalidity of many marriages, it is possible, for the time past, to proceed with a remedy at the root. Indeed, the Roman Pontiff can grant this remedy; and the Holy See will certainly grant it, even if only for caution's sake; but one must not resort to this extraordinary and almost desperate measure unless compelled by extraordinary necessity. For, even if marriages improperly contracted are validated for the future by a remedy at the root, the most grievous fact remains: that so many spouses have, for many years, been deprived of all the graces of the Sacrament of marriage, which are not restored to them by this remedy at the root. Indeed, it may happen that spouses, joined in an invalid marriage and already suffering from the yoke of marriage, if they suspect anything about this alleged invalid practice, will easily find an opportunity to shake off the yoke and to request a declaration of the nullity of the marriage. What should be answered, if such a case is presented before the ecclesiastical court and before the Holy See itself? If the invalidity of this practice of assisting marriages is certain, a judgment must be rendered against its validity. But if this invalidity is not certain and undoubted? The fundamental principle of canon law remains unshaken: a marriage should not be declared null, unless there are certain arguments to prove its nullity. Are the reasons against the validity of the Cologne and Aix-la-Chapelle practices certain? That remains to be examined. Before that examination is made, a third observation must be made. III. In the second question, it is asked whether, in the case in which, in the response to the first question, a judgment has been pronounced against the validity of the alleged practice, "it is necessary to petition the Most Holy Lord for the validation of the same practice with regard to the future, in this case." As I have already noted in relation to the first question, this must be repeated with regard to the second question, namely, that the question must not be

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restricted "to the validation of the same practice." Indeed, the intervention of the Roman Pontiff must be sought, in order to validate marriages, perhaps improperly contracted, or by an invalid practice, or at least...

[*Latin ed. p. 650*]

650 COLOGNE. The practice (since, in the second instance, it seems more accurate to distinguish between the two) concerning the headnote "Tametsi" [Although], which perhaps seems contrary to the Council of Trent, is deemed legitimate; for it is the right of the Roman Pontiff alone to change both common law and, especially, the law of Trent. However, even if the matter concerns only the interpretation of the headnote "Tametsi," which is likewise reserved to the Apostolic See and exercised by the Sacred Congregation of the Council, and the learned Fathers believe that the aforementioned practice should not be condemned as invalid or illicit, nevertheless, for other reasons, a petition can be presented to the Most Holy Lord, so that He may deign to approve the decision in a special manner. And this can be done, above all, to give greater solemnity to the decision, as happened in another interpretation of the headnote "Tametsi" under Urban VIII, also at the request of a certain Archbishop of Cologne, given by the Sacred Congregation of the Council, as reported by Benedict XIV in the letter "Paucis abhinc," March 19, 1758, and in the work on diocesan synods, book XIII, chapter 4, paragraph 10. Furthermore, the interpretation to be given is not, perhaps, a purely interpretative one, but contains a statute. In this regard, De Angelis, in *Praelectiones iuris canonici*, book IV, title 4, paragraph 9, 10, refers to the rescript of the Sacred Congregation of the Council concerning the relationship between civil marriage and the impediment of public decency, dated March 13, 1879, and confirmed by the Most Holy Lord on the 17th of the same month, which he calls a "declaration with a decree," in which the Most Holy Lord declares and establishes. Finally, in order to avoid confusion and arbitrary extension of the declaration, even a favorable one, it would be possible to add not only a specific manner in which this practice can and should be exercised, but also to prohibit the extension of such a declaration to other regions without the intervention of the Apostolic See, as was stipulated with regard to the declaration of Benedict XIV for Holland, on November 4, 1741. Therefore, although there may be no solid doubts about the nullity of the practice alleged in the case, a petition to the Most Holy Lord to deign to grant approval may nevertheless be necessary or at least useful, for another reason. Cf. also the approval given by the Most Holy Lord to the decision of the Sacred Congregation of the Council, as reported by Fagnan, in *Commentaria*, book IV, title 3, chapter 3, number 33. EXAMINATION OF THE REASONS AGAINST THE VALIDITY OF THE PRACTICE IN THE CASE OF PROLATARIES. In the preceding observations, it seems to have been sufficiently demonstrated that certain arguments are required in order to declare the practice in ques-

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tion invalid. But the reasons that are given on page 7 and following, against the validity of the practice, are...

[*Latin ed. p. 651*]

COLOGNE. 651. It is alleged that certain opinions are held, but these do not appear to me to be certain or truly conclusive, subject to a better judgment. Firstly, three declarations of the Sacred Congregation of the Council (S. C. C.) are cited, in which this practice is said to be condemned, and therefore a doctrine contrary to the principle adopted by the S. C. C. is presented. I refrain from discussing the question of whether, from these three declarations of the S. C. C. given in certain particular cases, in which this special question was not expressly examined, a certain general rule and principle can be deduced. Indeed, Benedict XIV, in the aforementioned declaration concerning Holland, wrote: "Although His Holiness is aware that, in certain particular cases and with the circumstances then presented, the Sacred Congregation of the Council has responded regarding the invalidity of such marriages, nevertheless, having also ascertained that nothing has yet been definitively determined by the Apostolic See concerning such marriages in general, it declares and establishes." But these observations are unnecessary. The principal difficulty arises from the fact that the S. C. C., in the aforementioned declarations, stated: "It is not sufficient for the validity of marriage that there be a tacit license, which results from tolerance, but either a general license to administer all the sacraments is required, or, if this is not present, an express and special license." However, the parish priest, from whose parish the spouses have departed, is no longer their proper parish priest; therefore, he must have a special and express license for a valid assistance, and that universal delegation is not sufficient for the validity of the marriage. This appears to be the argument presented in the aforementioned document, if it is reduced to a shorter formula. But what the S. C. C. wrote concerning tacit license is clearly not relevant to our case. For, as is evident from the facts, we are not dealing with a tacit license, but with an express and public appointment of parish priests, which was preceded by a solemn agreement between the parish priests, to which not only the Ordinary added his confirmation, but also, as stated in the petition of the Most Reverend Archbishop, he instructed the parish priests with delegated power, "having been granted the faculty of subdelegation." The same applies in the city of Aix-la-Chapelle, although nothing is written about the express faculty of subdelegation granted by the Ordinary, but since that appointment was made for the generality of cases, it follows from general principles of law that the subdelegation was also permitted for particular cases. Therefore, since it is certain that an express license was given in the case, the controversy among canonists is

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of little concern, whether...

[*Latin ed. p. 652*]

652 CONCERNING COLONIALS. The declarations of the Sacred Congregation of the Council of Trent (S. C. C.) not only exclude presumed or tacit permission in the broad sense, but also tacit permission in the strict sense. That presumed permission is excluded is manifest; but whether tacit permission is excluded, although its objective existence can be certainly proven by the facts, is, according to De Angelis, book 1, chapter 4, title 3, number 5, and according to Giovine, Gury, Ferrari, and others, not yet definitively established. The argument presented based on the alleged declarations of the Supreme Sacred Congregation is not sufficiently strong to establish the necessity of a special license, if the delegation to the universality of causes is excluded by these words. For it is clear to anyone reading the text of those decisions that the controversy directly addressed was whether tacit or presumed permission is sufficient, or whether express permission is required, and the S. C. C. is entirely focused on excluding tacit or presumed permission and requiring express permission; it does not even touch upon the question of whether a certain special permission is sufficient for the universality of causes, and much less does it reject it, even with a qualifying clause. For the words of the S. C. C. must be understood in opposition to what exists between the first and second member of the dilemma presented by the S. C. C. In the first member, there is no mention of a general license to assist at marriages, but rather of a general commission to exercise the care of souls and administer all the sacraments, including marriage. To this universal genus of the care of souls, the second member of the dilemma does not oppose a license to assist at a single, specific marriage, but rather a species of matrimonial causes, insofar as they are distinguished from the universal genus of the care of souls. But such a "special" license can, by its very nature, be granted either for the universality of a certain set of causes or for a particular case. Furthermore, an interpretation of the declarations of the S. C. C. is not admissible that contradicts other declarations of the same S. C. C. Indeed, in the case of Tricarico, June 27, 1733, the S. C. C. judged that a marriage had been validly contracted before a priest to whom the parish priest had given written permission to celebrate marriages among any within his flock. This permission was certainly given for the universality of causes, and not merely for the celebration of a particular marriage. Furthermore, in the cases of Bosanen, November 28, 1789, and Turritana, December 19, 1795, although the S. C. C. disapproved of the unlimited delegation of coadjutors made by the parish priests in contravention of the diocesan statute, it nevertheless fully upheld

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the validity of all marriages celebrated before those delegated.

[*Latin ed. p. 653*]

COLOGNE. 653 Indeed, practice is the best interpreter of laws, but in many dioceses, vicars or assistant pastors are not appointed with that very broad authority, including the ability to assist at marriages, which vicars of parishes enjoy in France (cf. Gury, *Theologia Moralis*, Vol. II, no. 850). Therefore, the first part of the dilemma is not verified. Hence, Feije, in *loco citato*, no. 296, writes: "Since vicars or assistant pastors are not everywhere appointed in such a way that the general administration of the Sacraments is attributed to them by the Ordinary, or at least not everywhere is the assistance at marriages considered to be included in the general commission to administer the Sacraments, it must be investigated in each diocese how they are named; in many dioceses, and certainly in Belgium, they require a faculty obtained from the pastor." What Feije testifies about Belgium, that assistant pastors are not given by the Bishops that general commission to administer all the Sacraments, including marriage, also casts doubt, at least for the diocese of Brixen, according to Aichner, *Compendium iuris eccl.*, § 187, note 16; indeed, Scherer, *Ius ecclesiasticum*, § 93, note 43, completely denies the existence of such a general appointment of vicars in Austria and Hungary, and strongly doubts whether such a broad power of assistant pastors exists in Germany proper. And indeed, Kreutzwald, who is a professor of canon law at the seminary in Cologne, testifies about the very Archdiocese of Cologne, that in no way does the general authority to assist at marriages belong to assistant pastors by virtue of their office, but that, whether for individual marriages, or for several marriages, or generally for all marriages, celebrated in the parish, an express license from the pastor is required. Cf. *Ephemerides pastorales* (Archidioecesis Coloniensis), year 1889, p. 27 sq. But despite this most certain practice, by which the right to assist is denied to assistant pastors by virtue of their office, the canonists mentioned above do not deny to the pastor the right, even generally, or for all causes, to validly depute assistant pastors. Thus, for example, Feije, *loco citato*, teaches: "The pastor can also give his vicar a general commission, but it is to be disapproved if the pastor gives such a general mandate to someone, so that, even if he is not absent or hindered, he can perform all parochial duties." Similarly, neither Aichner, who is now the Prince Bishop of Brixen, *loco citato*, in his *Compendium iuris ecclesiastici*, widely distributed throughout Austria, nor Kreutzwald, Scherer, and other canonists, deny that right of pastors.

[*Latin ed. p. 654*]

654 COLONIA. In general, the question of whether assistance in marriages should be delegated raises no doubt. Therefore, that dilemma presented in the declarations of the Sacred Congregation of the Council, ac-

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cording to a genuine interpretation, can be stated in other words as follows: No priest validly assists in the celebration of a marriage in a parish unless he has, therein, either a general commission from a competent superior for the exercise of the care of souls and the administration of all sacraments, or a special and explicit deputation for assistance in the celebration of marriages, either in a particular case, or in several cases, or generally in all marriages. With this interpretation accepted, the entire argument against the validity of the Cologne practice, as presented in the declarations of the Sacred Congregation of the Council, clearly collapses.

II. Secondly, it is argued from another response of the Sacred Congregation of the Council: "A marriage, as mentioned above, contracted by a priest who did not have either certain or presumed knowledge that he had permission from his own pastor, is not valid." However, according to the Cologne and Aix-la-Chapelle practice, it could happen "that a pastor would assist in the marriages of outsiders, not only without certain or presumed knowledge of the delegation, but even with the conviction that he was acting according to his own and ordinary right," as stated on page 8. Therefore, it seems that the validity of that practice is being questioned. The authenticity of such a declaration seems entirely to be admitted, since that response of the Sacred Congregation of the Council is also cited by other authors, such as Giraldi, *Expositio Juris Pontificii*, Part II, section 115, Zamboni, *De Matrimonio*, § 19, and Feije, *1. c.,* note 297. It is sufficient to note that this response does not concern only the ignorance of the delegated priest, but also the ignorance of one of the contracting parties regarding the delegation by his own pastor. Furthermore, with those words, "who did not have either certain or presumed knowledge (of his delegation)," the Sacred Congregation of the Council seems to imply that objective permission is required and that presumed permission is not sufficient, which may objectively not exist, but that knowledge of that objective permission, given in fact, does not necessarily have to be certain, but that presumed knowledge is sufficient, provided that this presumed knowledge is based on a true foundation, i.e., that permission was actually granted. For the Sacred Congregation of the Council excludes the validity of assistance in the alleged case because the priest did not have either certain or presumed knowledge of his delegation; therefore, it seems that the Sacred Congregation of the Council did not intend to declare that delegation null, if at least the second of the conditions imposed, i.e., presumed knowledge, had been fulfilled.

[*Latin ed. p. 655*]

COLONIA. 6§5. Concerning Estates. Hence, it seems that the Sacred Congregation [of the Council] rather adopted the opinion already held by Sánchez, in *De Sacramento Matrimonii*, Book III, disputation 36, and by Barbosa, in *Collectanea Doctorum*, in the cited chapter, number 118,

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and by others, such as Fillucius and Hurtado, that the assistance of a delegated priest is valid, provided that the delegation has been granted by the proper pastor, either upon request or with the knowledge of the request, even if the knowledge of the granting of the delegation has not yet reached the delegated priest. Nor should the doctrine transmitted by Sánchez in chapter 1, number 3, be omitted, namely, that the knowledge of the granting of the delegation is entirely not required for the validity of the act in privileged cases, if the granting was made by means of a statute or constitution, and not by a simple rescript. And these things have been said abundantly. For how can it be said that the pastors of Cologne or Aix-la-Chapelle labor under ignorance of their delegation? Indeed, I do not understand this at all. Certainly, ignorance of the law cannot be alleged. For just as an ecclesiastical judge must know the common law and the law received in his entire diocese, so too a pastor must know the law by which the territory of his parish is governed. Indeed, the delegation of pastors in this case is based on a solemn convention, ordination, and statute of the Ordinary, to which the power of delegating has been added. How can such a solemn act be unknown to the pastors? Rightly, the following would be opposed to them, from R.I. 13 in Sexto: "Ignorantia facti, non iuris, excuses." Nor can the ignorance of this statute be presumed in the faithful. For it concerns a certain public and well-known convention and statute, which is frequently applied in practice, and which the faithful know well; for many years, marriage has never been impugned as invalid, because the bridegroom, having already moved his domicile to a new parish, celebrated the marriage in the old parish, and the pastors provided assistance without a prior and rigorous examination. Furthermore, even ignorance of the fact itself cannot be alleged. For, as is clear from the nature of the case, we are not discussing any custom whatsoever, but the custom of Cologne and Aix-la-Chapelle. But there, the delegation is not granted for assistance in marriages of betrothed who are completely unknown to the pastors, and who come from all parts of the world to those cities, but only for those betrothed who have previously resided in that parish and who are not infrequently known to the pastors for many years, who, for example, were personally subject to the pastor just two weeks before the celebration of the marriage, when they were still under his jurisdiction, and who had the banns proclaimed.

[*Latin ed. p. 656*]

6. The clergy of Cologne requested [clarification]. Therefore, if these betrothed, having been abandoned by their parish priest, present themselves in a church to contract marriage, the priest certainly knows that he is competent to assist, either by his own right or by delegated authority. It cannot be argued that the parish priest is assisting "with the persuasion of acting according to his own and ordinary right." For such an assumption

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could be made if the parish priest were completely unaware of the frequent migration of these betrothed from one parish to another, for which a convention had been entered into with the approval of the Ordinary. With such a convention and practice in place, the parish priest does not assist with the limited intention of exercising his ordinary and proper right, but rather with the full extent of his authority, so that the act may be valid. Indeed, the Rhine priests, being very experienced in legal matters, are not usually such simple people that they would, even in suspicion, consider that a marriage is being celebrated according to a convention, given the diversity of the betrothed. Finally, it is clear that the assistance of a parish priest in the celebration of marriage is not an act of order or jurisdiction, but rather the office of a qualified witness. Cf. Sánchez, 1. c., n. 8; Feije, 1. c., n. 286, 294. Therefore, rigorous principles regarding the delegation of jurisdictional power cannot simply and absolutely be applied to the license given to assist in the celebration of marriage, and, for example, the Sacred Congregation [of the Holy Office] responded on September 9, 1684, that a marriage is validly contracted before a priest assisting by mandate of the Bishop, whom, through error, he mistakenly believed to be the parish priest. Cf. Girali, I, 1. c. Indeed, even if that power of assistance were called jurisdiction, it would not make much difference in this case. For just as the Bishop, who, according to Tridentine law, can proceed either by his ordinary and delegated right, or by delegated right alone, validly exercises his jurisdiction if, through theoretical error, he believes that he is using his ordinary right, so too the parish priest would not act invalidly in this case, because this theoretical error does not exclude the will and intention of applying the delegated power, unless this is done expressly and openly, as happens with Calvinists, who bring their theoretical error about the law of dissolving marriage as an express condition in the agreement. Such an assumption of the intention of the parish priests to restrict their power of assistance to only their ordinary right, given that convention, is a completely absurd hypothesis; therefore, the priests of Cologne and Aix-la-Chapelle use the full extent of their power, which they have even by statute and ordination of the Ordinary" (cf. Sánchez, 1. c., n. 3), so that a valid marriage may be celebrated.

[*Latin ed. p. 657*]

COLOGNE. Regarding marriage. From the observations made, it appears to be demonstrated, even from the second declaration of the Sacred Congregation, cited on the page, that a legitimate argument against the practice in question cannot be derived. III. "But, moreover, it can also be said, and not improbably, that the same controversial practice undermines the entire economy of the 'Tametsi' clause, and that letters and the spirit of the same clause, with great expense, are encountered in the ecclesiastical discipline concerning this matter." Thus, on page 10.

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The matter is indeed serious: the subversion of the 'Tametsi' clause, and it is justly demanded that such an assertion, which is a serious accusation against not a few ecclesiastical prelates, be proven with solid arguments. What are these arguments? They can easily be reduced to two: 1. The Council of Trent did not intend any priest, but the proper parish priest, to be the qualified and exclusive witness in the marriages of his subjects. However, in the case in which we trust better things of you, and nearer to salvation. Therefore, the practice in the case contradicts the purpose of the law of Trent. 2. Although the law of Trent grants parishes the faculty of delegating assistance, it is a matter of a "singular and individual" delegation, so that the parish priest "in each case carefully examines" the parties, and assistance is delegated to another priest only "for a legitimate and very serious reason," and, according to Benedict XIV, only "out of unavoidable necessity." However, in the case in question, there is no such singular delegation, nor are notifications and examinations made by the proper parish priest, nor are the reasons for a very serious and unavoidable necessity verified. Therefore, it seems necessary to pronounce against the practice in the case. To this reasoning, the most serious presumption is opposed, which is requested in relation to the subversion of the 'Tametsi' clause. The dangers of the subversion, depicted in such dark colors, which are said to threaten from the practice in the case, should have been made manifest after so many years ("from time immemorial" in the city of Aix-la-Chapelle, "many years ago" in Cologne) in both cities. And yet, no one has seen the subversion of the 'Tametsi' clause exist in these two cities. Indeed, the Most Reverend Archbishop, who has governed the Archdiocese of Cologne for five years now, requests, with eloquent words, the approval of that practice; but who will say that this President has been in the Acts, Volume XXV, page 299, for a long time?

[*Latin ed. p. 658*]

688 COLONIA. Those who are devoted to the care of souls and to the administration of dioceses ought to request from the Holy See approval for practices which their own experience has shown to be detrimental to the "Tametsi" decree? Furthermore, the same practice was expressly confirmed in the city of Cologne in 1866 by His Eminence Cardinal Melchers, when he was the Archbishop of Cologne, and was never reproached by His Eminence Cardinal Geissel, who preceded His Eminence Cardinal Melchers in the See of Cologne; this practice existed even under Archbishop Clement August, a staunch defender of the sanctity of marriage against the Prussian government. All the prelates whom I have just mentioned would not, for even a moment, tolerate a practice that, by experience, had been shown to be detrimental to the discipline of Trent. Finally, the pastors of those cities are usually chosen from among the most distinguished members of the entire diocesan clergy, and are recommended by their long experience and

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pastoral zeal. These men would certainly not have supported a practice if it had been, by experience, condemned for its harmful effects. It must also be noted that in these two praised cities, true Catholic life flourishes so much that they can serve as an example to many Catholic cities for many years. It is difficult to understand how this is reconciled with the undermining of the "Tametsi" decree. Therefore, at the very least, the undermining of the law of Trent has not been demonstrated by experience, and rather it seems to be a certain canonical concern, rather than a real danger that threatens ecclesiastical discipline from the Cologne practice. We must approach the matter more closely. Is it the case that the Cologne and Aix-la-Chapelle practices, which are presented in their specific form (and not of some fabricated practice), are, in themselves and by their nature, detrimental to the law of Trent? Indeed, the Council of Trent does not require any priest to be a qualified witness, but it requires that he be a parish priest. This is certainly the case here; not just any priest is appointed, but eight parish priests in Aix-la-Chapelle and nineteen in Cologne are competent to assist. But you will say that the Council of Trent also requires a parish priest. Certainly. But the same Council granted both the parish priest and the Ordinary the right to delegate assistance, and in cases where someone clings to words and, while using the words of the law, opposes the will of the law (R. I. 88 in Sext.), it often happens that another parish priest assists just as well, or even better, in achieving the purpose of the Council of Trent. For, according to the Cologne practice, in addition to the parish priest, who, strictly speaking, according to the law, is...

[*Latin ed. p. 659*]

COLOGNE. Only the proper pastor is entitled to perform the marriage ceremony; it is solely the duty of the pastor of the parish from which the couple has departed, in which they reside at the time when the marriage banns are to be proclaimed; and this competence does not remain indefinitely, as is evident from the nature of the case. However, it is clear that the couple is better known in the old parish than in the new one; it is easier to discover any impediments there; and the old pastor is more fully informed about the entire matter than the new pastor, in whose parish the couple may have resided for only a few weeks. This is true, as is evident from the practice followed in these regions, where marriage banns are proclaimed only in the parish from which the couple has departed, if the couple resides in the new parish for less than a month. Cf. Schneider, Manuale sacerdotum II, p. 336. "If less than six months have passed since they left their former residence, and they have not yet resided for a full month in their new residence, the marriage banns are proclaimed only in the parish of their former residence, although the marriage pertains to the pastor of the new residence." Furthermore, as mentioned above, the practice related to the Viennese ritual states that, just as is permitted in Cologne and Aix-

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la-Chapelle, the marriage ceremony must be performed before the pastor of the parish from which the couple departed, within a certain time. If this custom were not practical and convenient in larger cities, it would undoubtedly not have been prescribed in the Viennese ritual "within the walls." It is not a new or unusual situation when, in law, the principle is adopted that the one who is already competent in a certain canonical matter remains so, even if, in the meantime, circumstances arise that are contrary to his jurisdiction. Hence, for example, even in matrimonial cases, after a judicial summons has been served, a change in the domicile of the spouses does not affect the change with respect to the competent judge, as is stated in chapter 19 X concerning the forum. Cf. also Inst. Em. Card. Rauscher § 96. Therefore, just as this is accomplished by the very disposition of the law in the example given, so in our case it is supplemented by a proper delegation. However, the difficulty remains that, according to Cologne practice, the proper pastor is no longer exclusively competent, and the number of delegated pastors is multiplied at the discretion of the pastors. This practice, if it has any validity, can be pushed to the extreme, contrary to the legality of the practice, but it is ineffective with regard to its validity. Where, I ask, is the number of delegated pastors greater and more indeterminate than...

[*Latin ed. p. 660*]

660. In Cologne, in the case where a competent superior grants permission to a priest, chosen by the parties themselves, to celebrate the marriage, does this "vague" delegation impede the validity of the marriage? However, as is evident from the repeated declarations of the Sacred Congregation [of the Holy Office], cited above, such a delegation does not invalidate the marriage, although it is known that the Sacred Congregation does not favor unlimited delegations, as is also deduced from the cases of Bosa and Sassari, mentioned above. And in the discussion of the Neapolitan case, defined by the Sacred Congregation on July 3, 1734, the following was stated: "Regarding the first point, it is explained that a license to contract marriage before any priest, and with any person, particularly and specifically not designated, is considered too vague and general, and contrary to the mind of the Council of He Trent, Session XXIV, chapter 1, on the reform of marriage, and is not considered valid, as judged by Cardinal de Luca... And although Fagnanus, in Law IV, Decree, chapter Nobis, on dowries, marriage, number 32, § 'Whether a license refers,' stated that this Holy Congregation has declared that a written license granted by a parish priest is sufficient for the validity of the marriage, so that any priest may assist the contracting parties, nevertheless, in that case, it is noted that the contracting parties had been specifically designated." What, then, constitutes a vague delegation in the practice of Cologne? Certainly not on the part of the contracting parties; for the parish priest of the abandoned parish is only designated

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to assist those betrothed who have previously requested proclamations from him before leaving the parish and who have been proclaimed there. These persons are not vague or indeterminate. Nor is the delegation vague and too broad on the part of the parish priests who are delegated. For the number among whom the delegation is made is limited; there are 8 parish priests of Aix-la-Chapelle and 19 parish priests of Cologne. This number is certainly not enormous, even if they were all delegated. For example, in Paris, in the parish of Saint Magdalene, there are 8 vicars, for Saint Philip there are 10, and in the church of Saint Sulpice, there are 11; all these vicars are delegated for the universality of cases, even with regard to assistance in the celebration of marriage, and therefore can delegate in particular cases. Therefore, in the parish of Saint Sulpice, in addition to the parish priest, who properly assists, there are eleven delegates and their sub-delegates! This number of delegators in one parish is not insignificant; but no one has yet challenged the validity of this Parisian practice because of the excessive number of delegates. How many delegates are there in the case of Cologne or Aix-la-Chapelle? One, if we consider the matter in practice and in concreto. For, apart from the parish priest of the new domicile, only one is delegated as such.

[*Latin ed. p. 661*]

COLONY. 661 pertains at least to the lawful assistance of the parish priest of the domicile of the abandoned bride, in which the betrothed have already requested marriage proclamations. This one parish priest is not a vague delegate, but is most carefully determined. In practice, the matter is reduced to one delegate. For, as it is evident from the nature of the actions in the Archdiocese of Cologne, the Gallican practice does not flourish, by virtue of which all parochial vicars are delegated to assist in all marriages of the parishioners, but express permission from the parish priest is required for particular cases. Furthermore, even such a delegation is not vague and too general. For, religious priests are few in those regions, and they do not usually involve themselves in such matters. Other non-curate priests are equally few and are distant from the business of caring for the souls of others. Therefore, if a delegation is made, one is chosen from the few (ordinarily only two or three or four) curate priests, who themselves assist the parish priest in the care of souls, and among whom the first is often preferred over the others for the expeditious handling of matters of greater importance. Therefore, all the difficulties regarding the overturning of the "Tametsi" head, and the dangers that this ecclesiastical discipline presents, do not seem to arise from a vague and too general delegation. This conclusion can be illustrated by a practical example. According to the description of the entire Archdiocese of Cologne, published again in 1888 by official authority on page 22 et seq., the parishes of the city of Aix-la-Chapelle are listed first. First is mentioned the parish of St. Albert,

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with one parish priest and four parochial vicars (but the fourth vicary was vacant), and 22,200 parishioners, then follows the parish of St. Folian, in which one parish priest with three vicars (the third vicary was vacant) exercised the care of souls for 54,180 parishioners. In Paris, for example, the parish of St. Magdalene has almost the same number of parishioners as these two parishes in Aix-la-Chapelle. Indeed, in the aforementioned parish in Paris, for the same number of Catholics, 8 vicars assist with the parish priest in marriages, while in Aix-la-Chapelle, if all the vicars, together with the parish priests in both parishes, were to assist in marriages, there would be only 9 priests competent to assist, if the Gallican practice regarding the competence of vicars were in effect. This is not the case, as has been demonstrated above. Hence, if two betrothed, who had already requested marriage proclamations from the parish priest in the parish of St. Folian, subsequently move to the parish of St. Albert, the parish priest of St. Albert is competent to assist, and perhaps one of his own vicars, by spe-

[*Latin ed. p. 662*]

662 COLONESE. The decision of the deputation, and furthermore, only the parish priest of St. Folian remains competent, having accepted the delegation, who may, in a certain extraordinary case, specially delegate one of his chaplains. This practice certainly does not constitute a vague and overly general delegation; but, as I repeat, judgment must be rendered not on a certain fabricated practice, but on the practice that actually exists in Cologne and Aix-la-Chapelle. What is to be said in response to the other difficulty presented in the second syllogism above? The assertion contained therein, that the text of the Council of Trent requires a special delegation for each case and excludes a general delegation, saving a better judgment, is entirely devoid of foundation. Such an interpretation sins against the fundamental principle of legitimate interpretation: Where the law does not distinguish, neither must we distinguish. However, the Tridentine law simply and without limitation grants to parish priests and Ordinaries the power to delegate assistance in the celebration of marriages; therefore, since, according to the nature of the matter and according to general principles of canon law, delegation is permitted both for all causes and for particular cases, it is plainly arbitrary to restrict the right of delegation to particular cases. Furthermore, if that were the meaning of the chapter "Tametsi" [Although], both ancient and modern canonists would err in their interpretation of the Tridentine decree. Indeed, Sánchez, Reiffenstuel, and others, as Schmalzgrueber teaches, "Jus eccl. lib. IV tit. 3 n. 190," often use almost the same words, stating: "It can be granted (i.e., the power to assist at marriages to an external priest) by word, in writing, or by another external sign, by oneself or through an intermediary person, neither only specially, but also generally; and therefore, to him to whom the care of the functions or of

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the parish office has been entrusted, the power and authority to assist at the marriages of the flock entrusted to him is also entrusted, because, as a general rule, the general disposition must be understood generally and consequently, so that all species are included under it." The canonists are so united in this doctrine that they do not even mention the controversy that exists on this question. But who would say that all those doctors have erred in interpreting the Tridentine text, which is so simple and obvious? It does not help to point out that the Sacred Congregation of the Council in the aforementioned declarations adopted a contrary interpretation of chapter "Tametsi." For it has been demonstrated that those declarations contain a different meaning, which is further confirmed by the cited words of Schmalzgrueber.

[*Latin ed. p. 663*]

COLOGNE. 663 cases. For the Sacred Congregation of the Council (S. C. C.), which, for the genus that includes "all species," opposes a single species of matrimonial causes, but under that single species, many cases, not just one, are contained. Finally, in other responses, that overly restrictive interpretation of the S. C. C. was excluded. What, then, should be answered regarding what is objected in fol. p. 13 sq. from the words of Barbosa and Benedict XIV in the Constitution "Nimiam licentiam," namely that only the parish priest can delegate assistance to another priest for a "most serious reason," while the Ordinary can only do so for an "inescapable necessity." This is not verified in practice in Cologne, since there is no necessity for such a delegation. However, the authority of Barbosa is contradicted primarily by the authority of other doctors and by generally accepted practice. Thus, Feije writes in book 1, chapter 1, number 295: "However, the parish priest must take care not to entrust the ministry of assisting to another without a just cause," and in note 2 he adds: "However, general practice, which is consistent with the reasonable manner of speaking of the authors, requires only a reasonable cause. For vicars, at least, the parish priest does not require a most serious reason," as Nouv. rev. th. t. 3 p. 217 sqq. states. And indeed, in the Council of Trent, that clause about a most serious reason is not found, nor can a declaration of the S. C. C. be alleged, which so rigidly adopts that theory. Moreover, Benedict XIV in the Constitution "Satis vobis," November 17, 1741, requires only a serious reason, so that the Bishop may delegate assistance to another priest, besides the parish priest, even in cases of clandestine marriages or matters of conscience, which are indeed very dangerous. Finally, the citation of the Constitution of Benedict XIV "Nimiam licentiam" of May 18, 1743 is entirely irrelevant. For anyone who reads that Constitution in its entirety will easily see that it was written to the Bishops of Poland because of the disorderly manner "in which marriages are contracted by the Poles." "Indeed, and frequently, the presence of the proper parish priest is desired,

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when a marriage is contracted by words spoken in the present tense, and the commission of another priest to be present is sometimes requested, even without the knowledge of the parish priest himself. Very frequently, even, dispensations are granted over the announcements made for three days between the solemnities of the Masses in the parish church, both for the man and the woman intending to be married, so that no announcement is made, unless there is a legitimate and urgent reason." 1. c. § 5. In the same Constitution, § 12, Benedict XIV uses the term "inescapable necessity," for which...

[*Latin ed. p. 664*]

6. (Regarding) the Cologne practice: A bishop entrusts assistance to another priest, as is clear from the context; this concerns those commissions "which are given rather to any priest than to the proper pastor," especially when a dispensation is granted for all announcements, or perhaps only for one particular announcement. But who does not see that, as Benedict XIV states in the cited Constitution, § 5, "the aforementioned disorder and confusion prevailing in the Kingdom of Poland" are entirely different from the Cologne practice. Indeed, the right to assist is not delegated "to any priest," but to the pastor in whose parish the betrothed reside, from whom they requested the announcements, since they are subject to him, and who, by legal prescription, has publicly made all the announcements; he is better informed than a new pastor of a new domicile regarding all the circumstances and impediments of the betrothed. In such a delegation, there exists no "disorder and confusion." Furthermore, it should not be overlooked that Benedict XIV, moved by just indignation at so many and such abuses, used stronger and more severe language in order to bring back the pastors, bishops, and even the Apostolic Nuncio then present in Poland, to the right path. And in this sense, Feije rightly writes in chapter 1: "I believe that Benedict XIV, in the cited Constitution, although speaking generally, was led to a more severe style of writing by the great abuses prevalent in Poland, to which he was writing." If, therefore, it is objected against the practice in this case that such a delegation is not necessary, the answer has already been given above; for absolute and unavoidable necessity is not required, but rather suitable and just reasons are sufficient. These reasons are not lacking in this case, as has already been demonstrated in part, and other reasons will be presented in the affirmative response shortly. But someone in "dices" on page 1, suggests an easy remedy: "It would be sufficient if the pastor inquired, either the day before or on the day of the wedding, where the betrothed actually live." I believe that the pastors of Aix-la-Chapelle and Cologne would respond that this is not a practical solution. And indeed, that proposal already presupposes that so many bishops and pastors, instructed by experience and endowed with pastoral prudence, have not applied this remedy. Therefore, the pastors should inquire about the place

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of residence of the betrothed, i.e., the pastors are burdened with a new obligation, due to the lack of priests and the size of the parishes, to search the parish before the wedding, as if...

[*Latin ed. p. 665*]

COLONIEN. C65: Concerning whether the spouses have already left their parish, this matter is not insignificant and is very offensive. Moreover, on the very day of the wedding, in the church to which the spouses, according to the custom of the region, publicly come for some reason, it is not possible to inquire about their place of residence. This is a completely new rite and one not prescribed in the rituals, and it would have to be carried out in many marriages. But to what effect? If the spouses confess that they already live in another parish, a message must be sent to that parish priest, but he is not found at home, he is visiting the sick, he is teaching catechism in the school, and finally, after one or two hours, he is happily found. What happens in the meantime in the church, where the spouses are waiting for the return of the messenger with the parish priest? If the spouses do not lose patience and do not leave, impatient and indignant, filled with hatred against the parish priest, contenting themselves with a mere civil marriage, they at least remain exposed to public disgrace and ridicule. Nor can it be said that this is done as just punishment for fraud. For it is not uncommon for there to be no fraud at all. For simple people do not understand those more subtle distinctions regarding domicile in relation to the sacraments of orders, marriage, penance, and extreme unction; moreover, accustomed to this practice and delegation, they know that parish priests can assist in such marriages without difficulty, and they prefer a parish priest they know well to a new parish priest. Therefore, both of these proposed methods seem to completely lack practical utility. A positive response regarding the value of the practice. Since, in the examination above, it has been proven that the reasons against the value of the practice in question lack sufficient proof, it follows spontaneously that the conclusion must be in favor of the opinion affirming the value of p. 4 sq. in fol. established by its own arguments. This positive argument is largely contained in the aforementioned reasoning, and in order not to be longer and to avoid repeating myself, it can be summarized as follows: I. Such a practice is based on the very text of the Council of Trent, chapter "Tametsi": "Those who contract marriage otherwise than in the presence of a parish priest or another priest, without the license of the said parish priest or Ordinary, and without two or three witnesses, the Holy Synod declares to be entirely incapable of contracting such a marriage." In this text, the Council of Trent does not distinguish between a particular and a general license, nor should we distinguish between them, and both licenses are in conformity with the words of the Council of Trent,

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as Reiffenstuel has taught in 1. c. in fol. p. 4 sq., but...

[*Latin ed. p. 666*]

666. COLOGNE. Throughout, ancient and modern writers agree on this point without controversy. Compare above, refuting argument III, II, S. C. C. regarding the question: "Whether a written license granted by a parish priest, specifically designating the parties, so that any priest may, at their discretion, celebrate a marriage between them, is considered sufficient for the validity of a marriage in which another priest participates by virtue of the same license?" On June 15, 1589, as testified by Fagnano, in *Commentaria*, book IV, title 3, chapter 2, number 32, it was answered: "It suffices, especially considering the doctrine of Cardinal Zabarella, after Zenzel, Paul, Stephen..." Declarations consonant with this response were given in the case of Compost, on September 19, 1744; in the case of Tricarico, on June 27, 1733; in the case of Bosa, on November 28, 1789, and December 19, 1795; and in the case of Turrita, on December 19, 179 MSS, in which the Sacred Congregation, notwithstanding the general and unlimited delegation, upheld the validity of the marriages. Indeed, in the case at hand, as is evident from the facts presented, the delegation is less vague, less general, and less unlimited than in the cases cited; therefore, unless the Sacred Congregation wishes to adopt a new theory and doctrine, which it has not yet adopted in its decisions, at least the practice of Cologne and Aix-la-Chapelle must be upheld. III. Finally, on page 6 and following, this is further confirmed by the fact that, as testified by the Most Reverend Archbishop of Cologne, this practice has been in force from time immemorial, or at least for many years. This line of reasoning would not be without merit, even though it concerns a custom contrary to the principle "Tametsi" (although). There are authors who absolutely and simply deny that a custom can be introduced contrary to the disciplinary decrees of the Council of Trent. Thus, for example, Bouix, in *De principiis iuris canonici*, page 399 and following, and other canonists. Although it would not be difficult to demonstrate, this opinion rests on unstable foundations and is contrary to the opinion held by, for example, De Angelis, in *Praelectiones iuris canonici*, book I, title 4, number 12; Aichner, book I, section 17; and, above all, the excellent arguments presented in *Acta theologica Oenipontana*, volume VI (from 1822), page 438 and following, 608 and following, are to be preferred. However, for the sake of this discussion, we refrain from addressing this general question. For even the proponents of the stricter opinion would not extend it indiscriminately to an immemorial custom, but in our case, we are dealing with an immemorial custom, which deserves to be equated with a custom of a century's duration; moreover, Benedict XIV, who, as a private doctor, inclines towards a stricter opinion, openly concedes that the

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disciplinary decrees of the Council of Trent...

[*Latin ed. p. 667*]

COLOGNE. 667. In Trent, contrary to custom, it can at least "be relaxed," as is evident from the work on the synod, diocesan law, book I, chapter 6, paragraph 5; it is, however, clear that, by virtue of this practice, in Cologne or Aix-la-Chapelle, the phrase "although it is not to be abolished, but rather relaxed to the utmost" is used. Finally, "although it could not be said that a milder doctrine could generally be applied to the decrees of discipline of the Council of Trent, nothing would result from this. For, as is clear from R. I. 34 in Sext., by the species of derogation, it is already declared in the chapter 'Although' that contrary custom or desuetude can remove and abolish certain conditions specifically and in clear terms, as was declared by Pius VII in the letter to the Archbishop of Mainz, October 8, 1803, and by the Sacred Congregation of the Inquisition in the case of the Apostolic Vicar of Japan, March 11, 1868. The doctrine of practice was adopted. Indeed, the promulgation of the chapter 'Although' was once made by missionaries in Japan, but nevertheless, the Sacred Congregation of the Inquisition, in the aforementioned case, responded: 'No, i.e., that chapter no longer has the force of law in Japan.'" Cf. Collectanea Constitutionum S. Sedis, p. 473, 445 sq. But all of this is rather to be considered as embellishments and superfluities; for that custom, in the case of the Council of Trent, is not contrary, but rather conforms to the mind of the Fathers of Trent and to canonical equity. There is no doubt that the Fathers of the Council of Trent, when establishing the chapter 'Although,' assumed a great stability of the inhabitants, and they would not even have considered the incredible ease and frequency of changing residences in our age. Moreover, at the time of the Council of $Trent$, even in not insignificant cities, there was only one parish. Therefore, in the discussions and consultations in which the chapter 'Although' was prepared, there was such a firm conviction of the stability of the inhabitants that no difficulty was raised regarding the case in which the spouses belonged to different parishes, nor was anything expressly defined in the text of the Council of Trent itself, although it could easily be deduced from a more careful analysis. Nevertheless, in the year 1574, in the Sacred Congregation of the Council, a controversy arose as to whether, in the case of a marriage celebrated before the proper pastor, it was truly valid. Of the 11 Cardinals present, only six Eminent Fathers voted in favor of the validity of the marriage, while the other five maintained its nullity, since only the pastor of the bride appeared to be the proper pastor. The Most Holy Father approved the opinion of the majority of the Cardinals. Cf. Fagnan, loc. cit., n. 33. Indeed, if the Fathers of the Council of Trent assumed that great

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stability of the parishioners, then that pastor...

[*Latin ed. p. 668*]

668. Regarding assistance, a priest from another parish seems more suitable, especially if he resides in the parish where the couple has lived for a considerable time, rather than a new parish priest who has recently been assigned to that location. Hence, assistance can be appropriately provided through delegation, which the strictness of the law denies. Furthermore, these very circumstances demonstrate that this practice is advantageous to the parties, since they have friends and acquaintances in their former parish, while they are scarcely known in the new parish. Finally, in our age, people are already burdened by so many formalities of civil marriage, that the celebration of marriage in the Church should be made easy and expeditious for the faithful. Therefore, this proposal has already been put forward by many bishops since the Vatican Council: "If this impediment (of clandestine marriage) is to be maintained, at least let the condition be adjusted so that, under penalty of nullity, the exclusive presence of the proper priest is required, so that in the future the validity of this contract and sacrament will not depend on such easily occurring errors, which can arise and recur regarding questions of domicile and, consequently, regarding the quality of the proper priest." Cf. Martin, Collect, docum. Conc Vatic p. 163. In this case, there would be no change in the law of Trent, but rather, due to a change in circumstances that did not exist at the time of the Council of Trent, a prudent use is made of the faculty of delegation granted by the Council of Trent itself; on the contrary, one changes the law of Trent, who, neglecting the new conditions of the times and the migration of parishioners, restricts the permission to appoint another priest beyond the terms of the text of Trent without solid reasons. Finally, if abuses are feared from such a delegation, they can easily be avoided if the practice is approved only in individual cases, according to the circumstances. This procedure could include the following: I. This mutual delegation between pastors is not permitted unless it is accompanied by the approval and delegation of the Ordinary, together with the faculty of also delegating further (in order to eliminate all scruples in particular cases, if the delegation were merely a private agreement between the pastors). II. This delegation must be limited to the case where the matter cannot be resolved through the usual process of petitions and announcements, or it must be restricted to pastors from the parish that the parties have left, as clearly expressed in the agreement approved by the Most Reverend Cardinal Meichers. III. The delegation must be defined in terms of duration, so that it expires if, from the last day of the announcements (exclusive),

[*Latin ed. p. 669*]

COLOGNE. 669. According to the Roman Ritual, two months, or 60

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days completed, or the number of days completed as required by diocesan statutes, must elapse before the proclamations are repeated, if the marriage has not been celebrated within that time. IV. It may be ordered by the Most Reverend Archbishop that this faculty be used only for the larger cities of his Archdiocese. Therefore, I believe it is necessary to answer the following two questions briefly in this manner: I. Question. Does the mutual and general delegation, of which the Archbishop of Cologne speaks, suffice for the validity and lawfulness of the marriage? Answer. As to validity, affirmatively; as to lawfulness, affirmatively, according to the manner [in which it is done]. II. Question. Should application be made to the Most Holy Fathers for the validation and approval of this practice for the future? Answer. As to validation, provision has been made in the first [statement]; as to approval, affirmatively, according to the manner [in which it is done]. P.S. Since a sufficient amount of time has now elapsed since the aforementioned opinion was written and delivered, it will not be out of place if the opinions of two most distinguished canonists are appended, who, in the meantime, have independently examined the same question and have arrived at the same conclusion as stated above. This seems to contain a confirmation of the opinion advocated, and therefore it should be inserted here as an appendix, since the opinion is now being printed. Thus, Gasparri, professor of Canon Law at the Catholic University of Paris, writes in his excellent canonistic treatise on marriage, number 950: "Likewise, because the Council of Trent did not restrict the right of the parish priest or Ordinary to substitute another priest, it has always been our opinion that the discipline adopted by several dioceses is valid (number 941), whereby, for certain classes of persons, or the Ordinary, in the diocesan statutes, grants permission to all parish priests, or the parish priest grants this permission to another parish priest." But after what has been done in recent times by the Sacred Congregation of the Council, we have suspended our judgment. Then, in a report on the proceedings in the case of Posnania, Gasparri continues: "But this rescript does not definitively resolve the question, since it was given not by the Sacred Congregation itself, but by its Secretariat." Finally, the response of the Sacred Congregation of the Council, dated September 6, 1890, in the case of Cologne, concludes:

[*Latin ed. p. 670*]

670 COLONIE. "Therefore, this response is to be expected and received with all due reverence. However, it seems undeniable that mutual and general delegations made without the consultation of the Ordinary, as in the city of Posen, are in no way to be approved." Thus far, Gaspard. Scherer, professor of canon law at the University of Graz in Austria, in a continuation of the aforementioned work, states: "The author in § 112, note 187, does not at all approve of a decree by a Bishop, even if made with good

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intentions to avoid invalid marriages, by which all pastors or all priests of a diocese are declared, by delegation of the Bishop, competent to assist at the marriages of all the faithful of the diocese. This assertion is rightly refuted by the argument that such a diocesan statute would render the head of the chapter, as mentioned in Canon 1 of the Council of Trent, illusory." Nevertheless, the same learned canonist, without hesitation, writes in 1. c. note 166: "Thus, the pastors of one city can mutually delegate themselves to celebrate the marriages of their parishioners (cf. supra § 111, note 50), and they can, by agreement, establish that those who change their domicile during the time of the marriage announcements shall not be married by a new pastor, but by their former pastor, cf. Schoedrey, De domicilio in Artic. iur. eccl. vol. 30, p. 36." Furthermore, the same canonist, approving without hesitation the diocesan statute cited above from the Rituali Viennensi of 1774, states that, indeed, in § III, note 50, he frankly admits and teaches that the division of parishes in cities, which has only recently been put into effect, if a too rigid notion of domicile is maintained, exposes many marriages of the inhabitants of those cities to the danger of nullity; therefore, a remedy must and can certainly be provided: "If all the pastors of a city mutually delegate themselves, or sub-delegate themselves, for the marriages of the inhabitants." From these arguments, it seems to have been sufficiently demonstrated that these two distinguished canonists add their support to the opinion expressed above. OPINION OF THE CANONIST. In the year 1889, it was presented to this Sacred Congregation by the Ordinary of Posen that, frequently in his city, betrothed couples, without the knowledge of a pastor, abandon their own domicile and nevertheless request marriage announcements in the abandoned parish and contract marriage there. To avoid the invalidity of such marriages, the pastors mutually delegated themselves.

[*Latin ed. p. 671*]

COLOGNE. 671. The question was raised as to what the law is concerning this general delegation. And the response was given on July 20th of the aforementioned year, 1889, that, with regard to the past, it is not to be approved, but that in each case, an express and valid delegation is required. When this response became known to the Archbishop of Cologne, he stated that a similar practice was also in force in his own city, in which parish priests, for three months following the marriage banns, treat each other as delegates. And also in the city of Aix-la-Chapelle, where such a practice was approved by the Vicar General in the year 1840. Therefore, in the Congregation of September 5, 1890, based on reasons accurately presented by the Secretary of the Sacred Congregation, as can be seen in the respective page under number II, the following questions were raised: I. Does a mutual and general delegation, of which we have spoken, suffice for a valid marriage? And, to the extent that the answer is negative, II. Should we

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petition the Holy Father for the validation of this same practice with regard to the future, in this case? The Fathers, considering the gravity of the matter, responded: "Let the opinion of two consultors be obtained and considered." To this task, as far as I am concerned, I shall briefly, but to the best of my ability, present the well-known Decree of the Council of Trent. However, it is best to preface this with a few words about the history of that decree. The Holy Council of Trent, observing the grave evils that flowed from clandestine marriages, especially because, having abandoned the first spouse, they hastened to enter into other marriages, declared such marriages to be null. This matter was discussed several times; and as Cardinal Pallavicini recounts in his history of the Council of Trent, book XXII, numbers 42-46, at first, the necessity of three witnesses was simply proposed; then, since even heretics required the presence of their minister, it was proposed that one of the witnesses should be a priest (op. cit., book XXII, number 46). Then, in order to have a permanent witness, it was proposed that it should be the parish priest of one of the betrothed. Some proposed a notary in place of the parish priest; but the opinion in favor of the parish priest prevailed, because greater trust was to be placed in him, since he would diligently and cautiously inquire into impediments before joining the betrothed!, especially because he was obliged to announce the marriage banns himself and then to keep the document in the marriage book in order to provide proof (op. cit., book XXII, number 104).

[*Latin ed. p. 672*]

672 COLONIEN. and 105). And thus arose the Decree *Tametsi* (Session XXIV, chapter I, concerning marriage impediments), the principal part of which is as follows: "It is decreed (by the Holy Synod) that in the future, before any marriage is contracted, it must be publicly announced three times by the respective parish priests, on three consecutive festive days, in the Church, during the solemnities of the Mass, among whom the marriage is to be contracted, unless the Ordinary himself judges it fitting to remit the aforementioned announcements; which matter is left to the prudence and judgment of the Holy Synod." Those who attempt to contract marriage otherwise than in the presence of the parish priest or another priest, with the permission of the parish priest or Ordinary, and with two or three witnesses, the Holy Synod declares to be entirely incapable of contracting such a marriage, and decrees that such contracts are void and null, as it makes them void and annuls them by the present decree (followed by penalties). "The parish priest shall have a book in which he describes the names of the spouses and witnesses, the day and place of the marriage, which he shall keep diligently with him." Therefore, the parish priest is the one who must make the announcements, and having ascertained that no impediment exists, he must join the couple in marriage, or grant permission to another priest to do so, subject to the authority of the Ordinary,

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either to grant a dispensation for a just cause, or to assist at marriages, or to substitute another priest, when the Ordinary is himself the parish priest. Finally, the parish priest must record the marriages contracted in the marriage book. Therefore, the intent of the Council of Trent is that a person who is capable and ought to inquire about the suitability of the parties, especially through public announcements (the parish priest himself), or another priest or the Ordinary with his permission, should be present for the validity of the marriage, to whom, for a just cause, the power to grant a dispensation from the announcements is also given; but a just cause always requires that the Ordinary be sufficiently informed of the suitability of the parties. And although the Council anticipates that, sometimes, due to the malice of the parties (or due to the negligence of the parish priest or Ordinary), a marriage may be contracted without the announcements, or despite an impediment, because this is rare and difficult to occur, it did not wish to prescribe the necessity of announcements, or a just dispensation from them, for the validity of the marriage, but rather preferred to leave the freedom of the spouses intact. However, if a system of delegation were introduced, either by the parish priest or by the Ordinary, then...

[*Latin ed. p. 673*]

COLOGNE. (Regarding the very nature of the matter, I believe that if publications were not made by the proper pastor, or if dispensations were granted for a just cause, it would be contrary to the mind of the Council; therefore, an interpretation that would allow for such a delegation would be to be condemned, as it would be contrary to the intention of the Council. Let us therefore see if the practice in Cologne contradicts this intention of the Council. And it seems that it does. A reciprocal license is granted to pastors, not a special one, but a general one, for three months after the publications; but this is granted by one who does not know that he is the proper pastor of the contracting parties; hence, the proper pastor, at the time the marriage is celebrated, has not instituted an inquiry regarding impediments, nor has he made proclamations, nor has he himself recorded the marriages in his book; all of which is contrary to the Council of Trent. It is true that inquiries and proclamations have been made, but not by the proper pastor, nor in the proper parish at the time of the marriage, but by one who has ceased to be the proper pastor, who moreover attends the marriage unaware that he is proceeding in a case arising from a delegation, indeed, believing that he is acting in his own name; he may only have some general, confused suspicion that he may have been deceived by the betrothed, and thus proceeds by delegation. Furthermore, at the time that one of the betrothed departed from the first parish, no one inquired, neither the subsequent or actual pastor, because he was unaware, nor the former pastor, because of the betrothed's absence. And do not say that even if one of the betrothed remained in the parish after the publications, he could

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still postpone the celebration of the marriage for three months without requiring new publications. For as long as one of the betrothed remains in the parish, he is still under the vigilance of the pastor who made the proclamations, and of the parishioners who heard them, who would therefore report if anything new should arise; on the contrary, when he departs from the parish, he is no longer under this vigilance, nor under that of the new pastor, because he contracted the marriage in the first parish without his knowledge. Therefore, at that time, he was under the vigilance of no one. Let us see if the Ordinary can supplement this by approving such mutual delegations of pastors, as is said to have been done by the Vicar General in the year 1840 for the city of Aix-la-Chapelle, thereby making the proclamations made in the former parish equivalent and dispensing with new ones in the actual parish. And it seems that he cannot. For neither the Ordinary himself inquired, nor did he order another to inquire sufficiently about the existence of impediments.

[*Latin ed. p. 674*]

674. In Cologne, it happens that, after the last notices have been given, there is no one legally obligated to oversee the matter, especially during the period between publications. Therefore, such a method of delegation would be inherently flawed and contrary to the spirit of the Council of Trent, even if it were issued by a Bishop, even in a diocesan synod.

This becomes even more evident if we note that, once the validity of this general delegation granted by the parish priests of the city has been established, it could, with equal validity, be extended to any priests, not only of the city, but also of other dioceses; for there would always be a general delegation from the parish priest, or even from the Ordinary. This would certainly undermine the spirit of the Council of Trent, for it would eliminate both the vigilance required in contracting marriages and the readily available testimony concerning the contracts. Although this complete subversion does not occur in our case, it is still present to a certain extent; which is sufficient to say that such a method of delegation cannot be found within the provisions of the Council of Trent.

It remains to be seen whether it can be alleged, at least for the city of Aix-la-Chapelle, that a legitimate prescription exists, stating that such a method of delegation has been in force from time immemorial. And since this concerns a custom based on a false interpretation of the law, I believe it cannot be upheld, just as obligations arising from a false interpretation of the law are not upheld; for the intention in introducing this custom was not to deviate from the Council of Trent, but to follow it. Therefore, when the foundation crumbles, everything built upon it loses its strength.

Therefore, to the first question proposed, I would answer: No. Regarding the second, whether out of respect for the Council of Trent, or because it is fully in the interest of achieving the purpose intended by it, which

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would not be achieved by deviating even partially from its law, I would also answer: No.

The Archbishop of Cologne, in his letter of December 5, 1890, observes that the betrothed, about whom we are speaking, cannot be warned on the day of the marriage, nor the day before, to consult with them by referring them to the actual parish priest, or by obtaining from him an express delegation, and from the Ordinary a dispensation from the new publications; and therefore, there is a danger that the betrothed may lie and deny that they have changed their domicile after the publications have been made, so that the marriage is not delayed, or that they may abstain from celebrating the marriage before the Church, being content with a civil union. But I believe that this is rare and will happen only by accident. Furthermore,

[*Latin ed. p. 675*]

COLOGNE. 675. When those who seek to obtain publications first approach, they can be reminded by the parish priest that if they have subsequently changed their residence, they should inform him immediately. If they fail to do so, they are in no way excusable, and the sins which proceed from pure malice, or from mere negligence, are never considered a sufficient reason for abolishing laws, which are, henceforth, just. With these things noted, the following questions were to be clarified: I. Does a nullity exist in marriages contracted according to a practice, concerning which a proposal has been made by the Most Reverend Archbishop of Cologne? And, if so, to what extent? II. Should petition be made to the Most Holy Congregation for the validation of said practice with regard to future cases? RESOLUTION. The Sacred Congregation of the Council, after due deliberation on March 18, 1893, decided to respond as follows: To I. Negatively, and to the extent mentioned. To II. Provision is made in the first.

MILETUS. PERMISSION FOR MARRIAGE. May 21, 1892. Through summary petitions. In the plenary assemblies of September 12th of the past year, when the Sacred Congregation of the Council was consulted regarding a dispensation for marriage between Raphael Valensise and Rosa Loffredo, both of the marquisate of Mongiufi: Should petition be made to the Most Holy Congregation for a dispensation from a marriage that is valid but not consummated? The Most Reverend Fathers considered it appropriate to respond: Affirmative, but with the condition that the man is forbidden from entering into other marriages without the consent of the Sacred Congregation. Truly, bearing the imposed prohibition with difficulty, Raphael affirmed that he had, in the meantime, fully recovered from a temporary impotence, and, desiring to consider the good of his soul, in February of this year, he presented petitions to the Most Holy Office, so

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that... (The text is incomplete).

[*Latin ed. p. 676*]

676. MILETUS. It was alleged that preparations were being made for a marriage, even with a virgin. And in order that the prayers might be effective, a sworn testimony of a physician was presented. In response to the prayers, it was decreed that the Bishop should appoint another expert physician from the city of Mileti, of greater standing, to examine the petitioner bodily, who, under oath, should then report whether Raphael is capable of marriage, even with a virgin. The Prelate summoned an expert in the art of medicine, and asked him for his opinion. The physician, in turn, consulted with another professor of natural sciences, in order to give a more certain judgment. And indeed, after a long and prudent examination of the petitioner's genitals, they reported that he was fit for carnal intercourse, even with a virgin.

Synopsis of the Dispute. It is proper to recall, in relation to the case at hand, the well-known saying, "He who is not fit today, will be even less fit tomorrow," and to remember that the physicians Chiaron, Casoni, and Paris, before the judge, had declared that Lord Valensise was neither fit, nor could he become fit, for intercourse. And in order that this most serious judgment might not seem to be contradicted by the testimonies of the physicians, in which Raphael's potency for marriage is asserted, it must be noted that this opinion of the experts rests exclusively on certain external signs and the perfect structure of the body, which were present in Raphael at the time of his first marriage; and that, despite these, impotence can exist, as is demonstrated by Barzellotti in *Medicina legale*, cap. 3, lib. 1, to which the practice of the Sacred Congregation of the Council adheres, especially in Naples, on the day of marriage, April 25, 1858, etc. Furthermore, it should be noted that the Sacred Congregation of the Council is usually more inclined to grant permission for marriage with a virgin in such cases, and often, when granting the grace of entering into a new marriage, it adds the clause that it is only with a widow.

THE PETITION APPEARS TO BE REJECTABLE.

[*Latin ed. p. 677*]

MILETEN. 677 Nevertheless, it must be observed that the marriage between Raphael Valensise and Rose Loffredo began in the year 1880, and therefore, those things which seemed to indicate his impotence at that time must be considered in light of the passage of more than a decade. Consequently, it would indeed be fitting that, after a long period of time and the use of medicines, he has now become completely fit for the conjugal act. Furthermore, since the testimonies of experts in this matter are very clear, and no reason appears from what the Bishop has presented why

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their sworn declarations should be denied credence, the requested grace seems to be warranted. Indeed, it is established from the Abbot in chapter 4, concerning proof, that "when a matter requiring proof is presented in which the judge is not instructed, nor can be instructed, either because he is inexperienced in the matter, or because honesty does not permit it, recourse must be had to the judgment of experts in that art, and according to their testimony, the judge pronounces judgment." To this, Cardinal De Luca, in *De Iudiciis*, discourse 33, number 20, adds that such experts are "taken rather to judge, than to testify." Therefore, it would not be unreasonable to consider the opinions of the doctors Chiaron, Casoni, and Paris, given over time, who, otherwise, do not declare his ability to marry entirely impossible. Moreover, it should also be noted that at that time, other physicians were absent, who, in a civil court, either denied his impotence, or at least considered it doubtful, as is evident from the document of the Congregation dated September 12, 1891. Furthermore, it may be noted that the Sacred Congregation did not consider him to be perpetually impotent, otherwise, the clause would not have been added, which, instead of a simple prohibition from taking other vows, absolutely forbade him from entering into marriage, as was the case in the marriage of Lucca on August 9, 1862, and March 21, 1863, and in other cases. Finally, with regard to the petition to marry a virgin, it should be remembered that, although it is often more difficult to obtain from the Sacred Congregation, examples of such graces are not lacking, as we read of the case of a certain Angelo Marcelli, through a rescript from the audience of His Holiness on November 12, 1855. Finally, it should be remembered that, in the opinion of the petitioner, the Sacred Congregation SEEMS TO WARRANT THE ACCEPTANCE OF THE PETITION.

[*Latin ed. p. 678*]

678 MILETEN. It is to be declared, because with this permission, two would be made happy; those who desire to live the Christian life are joined by the bond of the sacrament of marriage. Having stated these things, it was asked how prayers should be dismissed. RESOLUTION. The Sacred Congregation of the Council, after discussion on May 22, 1892, decided to respond: At the discretion and conscience of the Bishop. APRUTINA – CONCERNING THE RITES OF FUNERAL. On January 28, 1893. Session 2, chapter 12, concerning reforms. Formerly, in the city of Teramo, there were several religious houses, which usually included a church for the performance of sacred functions, according to the rules of the religious order, and for the edification of the faithful people. These religious, as is their commendable custom, endeavored to establish lay sodalities in their churches, and it came to pass that the Brothers, commonly called the Cincturati, were in the church of Saint Augustine; the members of the Most Holy Rosary were in the church of the PP. Praedicatorum; the Brothers of the Holy Spirit

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were in the sacred building of the Hospitaliers; and others had their seat elsewhere. However, when, at the end of the last century, a mad war began against the Augustan religion, and first the stones of the sanctuary were scattered; the families of religious who resided in the Diocese of Aprutina were expelled by an unjust law of suppression, and they abandoned their monasteries, to which they have not yet been able to return. Therefore, the pious sodalities, of which we spoke above, took over the churches of the religious, the care and administration of which are still legitimately held by them. SUMMARY OF THE FACTS. The Bishop recounts that in the year 1890, in the church of this city, the expenses for divine worship of which are borne by the Sodalitium a Spiritu Sancto (Sodalitium of the Holy Spirit), a certain incident occurred, from which a disagreement arose.

[*Latin ed. p. 679*]

The matter under consideration concerns the relationship between a chaplain and a parish priest regarding the celebration of funeral rites, in the presence of the deceased. The Bishop, addressing this question, refers to the response of the Sacred Congregation of Rites in the Decree of the City and the World, year 1703, concerning doubt number XX, in which the Sacred Rota was consulted: "Whether it is permissible to perform the funeral office over the bodies of those being buried in the aforementioned public churches and chapels, which are dedicated to confraternities." It was deemed that the answer should be: "Affirmatively, provided that the deceased is subject to the parish priest, within whose jurisdiction the church or chapel is located." The Prior of the Sodality of the Holy Spirit again requested that the question be resolved; the same is desired by other parish priests and confraternities who have an interest in the matter. Indeed, the moderator of the Sodality of the Rosary, supported by the vote of the confreres, had already appealed to the Sacred Congregation and had urged a resolution to the following two doubts: "1. Whether confraternities, as mentioned above, are exempt from the parochial jurisdiction; and whether they have the right to perform funeral rites over the bodies of those who have chosen to be exposed for burial in their churches and who have wished to be carried by them to the cemetery, always reserving the fourth part of the funeral expenses for the parish priest. 2. Whether confraternities, which have not succeeded to religious orders, have the right to perform funeral rites independently of the parish priest, solely over the bodies of their confreres, always reserving the aforementioned fourth part of the funeral expenses."

A Synopsis: In defense of the confraternities, and in order to clarify the matter, it should be recalled from Clementine Decretals, specifically from "De Sepulturis Hostium," chapter 1, and from "Certiorari," in the same title, that a privilege was granted to the Brothers of the Order of Preachers and the Order of Friars Minor, allowing them to place the bodies of the

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deceased in their churches, "near the sacred relics of the saints, where prayers and solemn Masses are celebrated, both for the living and for the dead." This privilege, whether stemming from particular constitutions or from the communication of privileges to other religious orders, is observed at...

[*Latin ed. p. 680*]

()8Û In the matter of Latin law, all authorities agree. Barbosa, *De Officiis et Potestatibus Parochi*, p. 3, cap. 20, a. 81; Sacred Roman Rota, *Jura Canonica Romana*, vol. 1, p. 7, May 1712, § 1.0: "It is definitively established that it is not permitted for parish priests and other secular priests to enter the churches of religious orders, wearing a cross, stole, and cope, nor to administer absolution to the dead there, to chant the Office, to celebrate Mass, or to perform funeral rites, etc." Thus, it cannot be doubted that, through the erection of a public cemetery, temples which previously possessed the right of burial have not lost this right, but can still exercise it, albeit in a different location, as taught by Vecchiotti in his *Canons*, book 2, page 61, and by the Sacred Congregation of the Council in Ariminen on March 4, 1824, in Derthonen on June 16, 1827, and in numerous subsequent decisions. Therefore, having established these points, it is clear that members of sodalities, whose churches formerly belonged to religious orders, should still enjoy the rights of the burying ground, and therefore, the chaplains present there should have the right to perform the funerals of those who wish to be buried or laid to rest in those same churches. Indeed, it is established that the right of burial is accessory to the right of burial, as taught by Berardi in his *Dissertations on Ecclesiastical Unions*, 6 and 3; Zallinger, *Institutes of Ecclesiastical Law, on Burial*, § 358, and therefore, it possesses an accessory nature, following the nature of the principal right. It is not considered valid to argue that churches, concerning which the matter is discussed, have lost the aforementioned rights through a change of status, that is, through the departure of the religious order. For, they say, besides the fact that these temples have not ceased to be religious, because sodalities exist there, which are to be considered as deriving from or as heirs of the religious order, it must be observed that we are dealing with real rights, which, although granted with a view to the religious order, are nevertheless to be considered as belonging to the church itself, and not to the religious order. Furthermore, it should generally be observed that in the case of religious families who have been illegally expelled, the Holy See has not intervened in this matter, which is absolutely necessary in the case of a change in the status of a church from regular to secular. Rota Decis. 547.

[*Latin ed. p. 681*]

APRETINA 681 u. 5, corner of Merlino. More appropriately, the mat-

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ter concerns Ravenna. There was a case on March 17, 1781, concerning a temple of the regular clergy which had passed into the possession of the seminary. Since a dispute arose between the parish priest and the rector as to whether the right of burial had ceased, and since, in order to support the rector's position, it was argued that the extinction of the religious order could not be held to imply the extinction of the right of burial in the sacred place, because the right of burial is real and adheres to the temple, which contains the burial places; the question was posed: "Are the full funeral rites due to the parish priest, when the deceased were buried in the church of Saint Hieronymus?" The response was: "No, and moreover, no." This same conclusion was reached in a similar case in Pergulana on December 18, 1824, in Tivoli concerning the right of burial on March 17, 1827, in Fermo concerning funeral rites on November 21, 1840, and in other cases. Therefore, the members of the congregation do not consider the decree of the Holy Roman Church of 1703 to be applicable, in which it is decided that the right to perform the funeral rites in public churches and chapels belongs to the parish priest, when the deceased is subject to the parish priest, within whose boundaries the church or chapel is located, but rather, they adhere to the provision in Chapter 1 of the book *De Sepulturis*: "Since it is permissible for religious orders to choose their own burial places, canonical considerations should not be disregarded, nor should anyone presume to contradict the devotion and the last will of the deceased in this matter." Furthermore, given the established right of burial, it seems that the following axiom is also applicable: "Where there is a tomb, there is a funeral." Text in Chapter 10 *De Sepulturis*, Ferraris, *Bibliotheca Universalis Juris*, vol. 4, part 3. And what is to be understood by the word "funeral" is explained by Barbosa in *De Officiis et Potestatibus Parochi*, p. 3, ch. 27, v. 37: "Therefore, funerals are those things which pertain to burial and which, on any occasion, are brought to the church." Therefore, in this case, another decree of the Holy Roman Church, found in Gardellini, no. 422, would claim its place: "When a funeral is brought to the door of the church, the parish priest, or someone from the chapter and clergy, to whom the care of the people has been entrusted, must turn to the people, and grant them absolution, and then depart."

[*Latin ed. p. 682*]

682. In APRUTINA, the bodies of the aforementioned Regular Clerics are to be interred in the church, to which the care of performing these offices pertains. Furthermore, the party involved in the present case asserted that the aforementioned decree of the City and the World [i.e., the Holy See] was enacted "with due regard for venerable, or at least centennial, customs." In this case, moreover, he contends that an ancient custom favors him, in addition to the reasons previously mentioned. The extent of the force of ancient custom is evident to all who have even briefly approached

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the threshold of canon law. Indeed, it is stated that custom "can introduce a presumption of the most complete and ample kind of a better title, and therefore also of apostolic approval, even in acts of the Church that may seem to prejudice divine worship," as, among other things, the Rota in Romano states in its decision of January 26, 1725, § 5, etc. It is not, however, an obstacle that custom is invoked against the parish priest; provided that, as De Luca De Regid states in book 24, chapter inf., if jurisdiction can be prescribed, it would not be necessary to prescribe parochial rights, and furthermore, experience teaches that parochial rights are sometimes subject to prescription. In particular, the moderator of the Brotherhood of Cinctores asserts in his letter: "This right, namely, of burial and funeral rites, is most clearly verified in the church of the Cinctores, whose right of burial predates the foundation of the Augustinian Order, which inherited their church." It is, however, wrongly objected that it is stated in the statutes of this Brotherhood, approved by civil authority, in article 31, "that the right of the parish priest always remains fully intact." Indeed, from this very article, it could be argued that the Brotherhood possesses the right of burial; otherwise, that reservation would not have been added for the benefit of the parish priest. The confreres, however, protect the rights of the parish priest, while at the same time, in a case of doubt, they reserve the fourth part of the offerings due to him by law.

DEFENSE OF PARISH PRIESTS. But, above all, it must be considered that the parish priests have, not only in the parochial church, but also throughout the territory of their parish, a fundamental right regarding all matters concerning the administration of the sacraments, funerals, and other sacred functions.

[*Latin ed. p. 683*]

APRETINA 683, On the Habits of Monks, Chapters 1 and 4; On Burial, Chapter 2; Clement, *Dudum* § Xerwm on Burial; Barbosa, *De officis et potestate parochi*, page 1, chapter 12; *Rota Decis.* 124, number 1; *Decis.* 214, numbers 6, 7, part 12, etc. Therefore, when those who are not pastors claim some parochial right for themselves, rigorous proof must be presented by those asserting it. However, the Bishop does not believe that such proof exists in this case. And, whatever may be the origin of the confraternities of the city of Teramo, it is certain that the privilege of burying and performing funeral rites in the churches in question belonged, not simply and absolutely, but by reason of the religious residing there. But, since the religious, although unjustly expelled by an iniquitous law, left their monasteries long ago, and never returned to them afterwards; it would seem that, with their absence, the privileges granted to the churches in view of their presence also ceased. Card. De Luca, *De Iuris.*, Discourse 10, number 25, etc. "For when the state changes, so too does the law and its effects," as taught by the Rota in *Decis.* 1445, numbers 2 and 7, *cor.* Seraphino, and

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also by the same Rota before the Most Eminent IX, in *Decis.* 1092, number 16, and before Ratto, in *Decis.* 105, number 3. To support these points, the decision made in a completely "similar" case by the Sacred Congregation of Reforms on December 16, 1816, which was referred to as having been approved by the Most Holy Pope Pius VII in the case of Pergulana before the Sacred Congregation of Councils on December 17, 1824, must be cited. For since the Convent of the Minor Conventuals of Pergulana, which existed in the past, had not been restored, nor was it likely to be restored, the following question was raised: "Should the church, annexed to the convent, be considered in the present state as regular, with respect to privileges, ecclesiastical offices, burial, etc.?" And the answer given to the proposed question was: "No." Nor is anything done by confraternities that originated from religious; for, besides the fact that this may not be affirmed of all, it must be noted that religious families differ from lay sodalities in every way, and here we are dealing with privileges and rights, the granting of which is subject to the strictest interpretation. Card. De Luca, *De iurisdict.*, Discourse 28, number 7, at the end.

[*Latin ed. p. 684*]

684 APRUTINA. It does not appear that a better precedent can be found for the memorable custom of the moderator of the Brotherhood of the Cinctores. Indeed, what he asserts without conclusive proof is entirely excluded from the other side. It is established that, in order for a custom to have force, it must not only be legitimately prescribed, but also be certain and unambiguous, as demonstrated by Cardinal De Luca in *De Alien*, book 1, section 88. Indeed, observances that are obscure, ambiguous, or presumed, such as those alleged in this case, seem to have no validity whatsoever. Moreover, since this is invoked against parish priests, whose rights are in no way subject to prescription by any custom, in opposition to the Constitution of Pius IV *In Principis Apostolorum*, as explained by Scarfant in *ad Ceccoperi* in book 4, observations, section 9, and by the Sacred Congregation *C. in nullius Sublacen.*, of 18 September 1833, and the Brief *Brictinorien.* of 8 May 1821, which indeed intended to protect the same rights against a custom of forty years!!! or even a hundred years, as in the Brief *Iurium Parochialium* of 29 August 1750, etc. Regarding the second question, since neither word nor phrase is found in the documents, it has been briefly stated. First, the following was reported from Ferraris, *Bibliotheca Canonica*, volume 5, on Brotherhoods, article 5, number 1: "To brotherhoods, a privilege of burial may be granted by the Bishop." Thus, the Doctors commonly state, as practice confirms. However, deceased members of the brotherhood must be buried in the parish church, unless they have a proper burial place of their ancestors, and they should explicitly be buried in the burial place of their oratory or brotherhood. See the Sacred Congregation *Concilii in Neapolit.* of 13 February 1000, in response to 7,

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etc. And in the most recent additions: "According to the statutes confirmed by the Holy See, members of the brotherhood may be buried in the burial place of their church." The question is, whether in this case the funeral service over the bodies pertains to the chaplain of the brotherhood, or to the parish priest. Furthermore, when members of the brotherhood are to be buried in the burial place of their brotherhood's church, there is no doubt that it pertains to the parish priest, and not to the chaplain.

[*Latin ed. p. 685*]

In APRUTINA, it is the duty of the fraternity to perform the funeral rites over the bodies, since the act of choosing burial should not prejudice the right of the parish priest. *Marchetti, De Sepulturis, title 38; § 2, no. 04; Bassetti, De Sodaliis, question 2; memory 5*. However, if the confreres are to be buried in the church of their fraternity, as soon as possible, according to the statute approved by the Holy See, it must be determined what is stipulated in that very statute. Note that, if the statute is obscure or ambiguous, it must be interpreted in such a way that the right of the parish priest to perform the funeral rites over the bodies in the fraternity's church remains intact. To these matters are added the resolutions of the Sacred Congregation which, in Vaivén, or Sulmona (in book 77 of Decretals, page 277), were asked: "Is it permissible to have tombs in the same church, and may bodies be buried therein without permission, to the detriment of the parochial rights?" The response was: "It is permissible to have tombs, with the permission of the Bishop, and it is permissible to bury bodies in them, if burial is chosen without the permission of the parish priest, or with the parochial rights preserved." This is consistent with the decree of Nuscana, dated January 28, 1730, and the decree on Parochial Rights of Fermo, dated June 2, 1730, etc. Furthermore, it should be remembered that the same Sacred Congregation, on July 28, 1724, in response to the question: "Is it permissible for confraternities of the Salvation to bury in their own church the bodies of confreres and members who have chosen burial there, and can the same chaplain, in the absence of the parish priest, perform the funeral rites and other functions over those same bodies in such a case?" responded: "Affirmatively, regarding the first part; negatively, regarding the second part, unless the parish priest is summoned and refuses, or does not appoint another priest." With these considerations in mind, the following questions are proposed: I. Are the confraternities, of which we have spoken above, exempt from parochial jurisdiction, and do they have the right to perform funeral rites over the bodies of those who have chosen to be buried in their churches, and who have wished to be carried to the cemetery, while preserving for the parish priest the customary fourth of

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the funeral expenses in such a case?

[*Latin ed. p. 686*]

686. QUESTION: Do Confraternities, which have not succeeded Religious Orders, have the right to conduct funerals independently of the parish priest, only concerning the bodies of confraters, always observing the fourth funeral rite in such cases?

RESOLUTION. The Holy Sacred Congregation, having knowledge of the matter on January 28, 1893, decided to respond: To I and II, negatively, and furthermore.

FROM WHICH THE FOLLOWING ARE GATHERED:

I. From the fact that it pertains to the parish priests to administer whatever concerns the administration of the sacraments, funerals, and other sacred functions.

II. That formal proof is required, so that any Priest, who is not a parish priest, may validly claim some parochial right.

III. That privileges and rights which are granted to regular clergy concerning exemption from the jurisdiction of parish priests, are to be interpreted most strictly; so that it cannot in any way be considered that these privileges extend to lay sodalities, which differ entirely from Religious Orders.

IV. That a certain, unambiguous, and legitimately prescribed custom can even override parochial rights.

V. That through custom, no offense is brought to parochial rights, if it is obscure, ambiguous, or presumptuous, and not formally proven.

ZAGRAB – CONCERNING THE RIGHT OF PATRONAGE.

January 28, 1893. Session 25, chapter 9, concerning reform.

SUMMARY OF THE CASE.

Concerning this controversy, which pertains to the right of nominating the rector of the vacant parish of Tuhelj, between the Vicarius Capitularis of Agram and the free Baroness Olga Ozêgovic, born in the county of Erdödv, very little is found in the records; therefore, it will be useful to present, verbatim, the information from the Vicarius Capitularis himself.

[*Latin ed. p. 687*]

AGRAM, 687. It is necessary to refer to this matter. And what is asserted there, whether concerning the nature of the patronage right, or concerning the origin of the present question, appears to be consistent between the

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parties, so that a safe solution can be derived from it. Thus, the letter of the Ordinary of Agram states: "The patronage right relating to the Roman Catholic parish of the Blessed Virgin Mary in Tuhelj, in the archdiocese of Agram, has been connected since ancient times with the possession of the most celebrated former domain of Csaszarvar, or Oesargrad. The owners of that domain, the Counts Erdödy, in the course of the nineteenth century, divided this vast possession among themselves, so that the principal portions of it, namely the domains of Razvor and Novidvori II, passed to the brothers Alexander and Peter, Counts Erdödy. Furthermore, to these same brothers, as possessors of the principal portions of the ancient domain, the right to appoint the pastor of the parish of Tuhelj was granted. " As trustworthy historical documents testify, this patronage right relating to the parish of Tuhelj has been connected with it from the beginning of the declining century, or from the time when the division of the ancient patronal domain of Csaszarvar was actually carried out, either alternately or by turns, the owners of the domains of Razvor and Novidvori II exercising it. This question concerning the patronage right with regard to the aforementioned parish was subjected to a closer examination by the Government of the kingdoms of Croatia and Slavonia in the year 1885, because a doubt had arisen as to whether the owner of a certain domain, Velika Erpenja, or a part of that domain, could also be considered a co-patron and, as such, be bound to bear the patronal obligations. " After a thorough examination, the aforementioned Croatian-Slavonian Government, dated March 8, 1886, made a decision, accepted and approved by the Ordinary of Agram as well: namely, that the patronage right relating to the parish of Tuhelj is connected, by way of turn, only with the domains of Razvor and Novidvori II. " In the meantime, the pastor of Tuhelj, Vilhelmus Sorg, has died. According to the custom received in this archdiocese, vicars forane are accustomed to, and ought to, report cases of the death of a pastor.

[*Latin ed. p. 688*]

688 ZAGRABIEN. Concerning matters pertaining to the patrons of benefices, they are required to present, in the place of the deceased, another suitable ecclesiastical person for the vacant parish to the Ordinariate, within the term prescribed by the sacred canons and diocesan constitutions. In accordance with this custom, after the death of the parish priest of Tuhelj, Vilhelm Sorg, the concerned vicars of both patronal estates declared that they were uncertain as to which of them held the right of presentation for the present time. - Upon receiving such notification of the vacancy of the parish of Tuhelj, the aforementioned illustrious lady, Baroness Olga Ozêgovic, born Erdödy, the possessor of the estate of Razvor, presented the priest Franciscus Glojnaric for that same parish. However, for the reason that the possessor of the same estate of Razvor had last presented for the parish of Tuhelj, and according to the established turn or by

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the right of alternating presentation, the right of presentation for the present time belonged to the possessor of the estate of Novidvor II, who, however, having spontaneously renounced his right, and ingenuously acknowledged this, the Vicariate Capitular of Zagreb, in its response dated February 19, 1892, declared to the aforementioned lady that, for these canonical reasons, the right to designate or present a person for the parish of Tuhelj did not belong to her at the present time, and that the free collation was devolved to the Ordinary. "Against this decision, the aforementioned lady interposed an appeal, in which she endeavored to defend her opinion, arguing that the right of presentation should belong to her in that case as well, where the other patron, enjoying the right of alternating presentation for the present time, is unable to present due to a canonical defect."

Disputation Synoptica. THE RIGHTS OF B. OZEGOVIC. In favor of this Baroness, it was noted that the property and the exercise of the right of patronage should be considered in this matter. Indeed, after the division of the ancient estate of Cesargrad among the co-heirs, the right of presentation to the parochial benefice of the place of Tuhelj was assigned to two brothers, to whom the larger part of the estate had fallen, alternately, by a pact and with the consent of the authorities, and remained...

[*Latin ed. p. 689*]

AGRAM. The undivided patronage, properties, and domains of Razvor and Novidvori are equally and jointly held. It would seem that each patron, in his turn, could be considered, for the time being, the sole and absolute owner of the right of patronage, since the exercise of this right only admits of division in relation to what is possessed. (Glossa; *in* 1 verb. *dividi*; Garcia, *Mon. benefic.*, page 5, chapter 1; De Luca, *De iure patron.*, discourse 10; Pitonius, *De contract.*; De patronato). Assuming, however, that the right of patronage is an incorporeal thing, as Cardinal De Luca states (*In ben.*, discourse 23, number 9, and discourse 28, number 17), it follows that, in the case where those among whom the exercise is divided are lacking, or are hindered for some other reason, the entire right, as if by a right that cannot diminish, devolves to the survivors, or, more accurately, is consolidated in them. Indeed, it can be well maintained that, when dealing with several patrons, as in the case of those called to exercise their right in turn, if one is lacking, the other patron fully enjoys the right of presentation, simply because he does not, for this very reason, lose the slightest part of his property right. For the cession made by him, or the agreement concerning the turn of presentation, is only in favor of the fellow patron, in whose turn he himself is also represented; and therefore, if the fellow patron is lacking, such a cession or agreement seems to lose its effect, and the entire right reverts to the cessionary. This does not, however, prejudice the freedom of the Church; for the right of patronage is bound by a servitude as long as

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the fund, to which the right belongs, exists, and since it is certain that this servitude cannot be free on one side, and subject to the patronage on the other. Therefore, it seems appropriate to state what the doctors commonly teach, namely, that it is the nature of turns and alternations that, if one is lacking in making a presentation, another should step in. (Gonzalez, *ad regid.*, 8, Gloss. 17, § 3, numbers 17, 18; Rota cor. Meliin., decision 184, number 8, etc.). As for the right of devolution, which the Vicarius Capitularis of Agram seeks to defend with his decision, Baroness Ozegovic considers it to be quite inappropriately invoked.

[*Latin ed. p. 690*]

690 ZAGRABIEX. Furthermore, it is the case that the Church has invoked the right of devolution so that provision may be made for the perpetual vacancy of benefices and the damages arising therefrom. Moreover, it may be observed that devolution involves a penalty, and exerts its force to punish the negligence of those to whom the election or presentation pertains, and who delay the election or presentation beyond the time prescribed by law. Chapter *Quia diversità tem O de concess. praeb.* However, in this case, it is not the patron who neglects to exercise his right, and the very circumstances clearly demonstrate this. For if the Jew Bruckner, being an unbeliever, is incapable of presenting a candidate, he cannot in any way be accused of negligence. Therefore, in this case, it must be held that a co-patron is lacking, and consequently, there is no place for devolution, but rather for the consolidation of the right of presentation in the surviving co-patron. These points may be confirmed by what Pitonius states in *De controv. patr. alleg.*, XC, n. Ii, namely, that when the exercise of the right of presentation is divided, for example, between a lay patron and an ecclesiastical patron, such as a Bishop, if a benefice is vacant in Tournon, while the Bishop's see is vacant, the presentation pertains to the lay patron; otherwise, in the case of the Bishop's negligence, because then, in truth, it devolves to the superior. The Baroness Ozegovic adds: "The combination of the impugned decision of the Venerable Capitular Vicariate is in every way unjust, because the right of devolution belongs to the ordinary Bishop only when the Jew is the sole patron or collator, without any co-collator. In the case of the coexistence of Catholic co-collators, as is the case in the present instance, they alone have the right to exercise the presentation, without the Jew co-collator, even if in previous times the Jew, now represented, exercised this right in alternation with the other co-collators, as such occasions are excellently illustrated by Schulte's *Lehrbuch des Katholischen Kirchenrectes* in 1873, p. 320, 321; and Hinschius' *Stem des Katholischen Kirchenrectes* in 1870, vol. III, pp. 58, 59, 60, and p. 37, par. 7, all of which contradict my assertion." Finally, the Baroness Ozegovic asserts her right, both on the grounds of the burdens inherent in the right of patronage, and

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also on the grounds of the reasons she has presented.

[*Latin ed. p. 691*]

"OF ZAGREB". 691. In this matter, he adds: "Although the right of patronage, when exercised alternatively, should be considered an active right, I do not believe that the right of co-patronage should, for that reason, be considered a private right, especially given the case of Novidvor II, which is currently held by a Jew. Indeed, the right of co-patronage is clearly evident in the manner in which burdens are borne by those with the right of patronage: for in the competition that arises because of such burdens, both patrons participate equally. Therefore, the same principle applies between myself and James Bruckner, the Jew, as it does between Catholics and Jewish electors in the magistracies, when the matter of electing a Catholic priest is at hand. Although the Jewish electors may hold the majority of votes, it is not they, but rather the minority of Catholic electors who choose, without any intervention from the Bishop, and the one chosen by them is considered elected. For this reason, Schulte, with whom Hinschius is associated, teaches that the right of devolution only applies in the case where no one of the Christian faith exists; otherwise, when even a single person professing the Christian faith is present, the question of the right of devolution should not be raised."

RIGHTS OF THE CANONICAL VICAR. On the other hand, after noting that the principle of alternative presentation between co-patrons fully conforms to canon law, as stated in Clement. 2 De iurep., it is observed that once this has been established and agreed upon, each, in his own turn, exercises his right separately, without any mention being made of the co-patronage, so that in such an act, the other patron has no part, and the right of patronage seems to belong only to the one acting in that particular turn. Given these premises, it is not apparent why a co-patron who is not present in the turn should be able to intervene in the presentation. It is indeed said that the right of accretion can be invoked by a co-patron; but, as Pitonius notes in the cited passage, allegation 74, n. 8, "the presentation cannot belong to the other co-patron by right of accretion, because, when the exercise is divided by an alternative or by a turn, the right is extinguished, although the commonality regarding ownership remains, which has nothing in common with the exercise, as is well demonstrated by the Rota in Lauden. Canonicatus, March 3, 1697."

[*Latin ed. p. 692*]

692 ZAGRABIE. It does not seem to be supported by any other reasoning that, although the exercise of the patronage right is divided, nevertheless, when one of the co-patrons presents [a candidate] in his turn, he exercises it by common right, and also represents the other co-patron. For it must be remembered that, according to the law of the Rota in Salamanca, in

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the *Alternativae* of 1851, cited by Pition, "where the presentation or nomination is simultaneous, and each is reserved for his turn in turn, the entire right is said to be transferred for that turn to him alone who is in turn, and it is not said to be divided only in use; but the entire right of conferring [the benefice] belongs solely to him, both by his own right and not by common right." Therefore, just as in any contract, those who agree mutually grant each other rights and obligations, under the same obligation to observe them respectively; so too, the co-patrons Erdôdy, and through them all their successors and heirs, by the established alternating law, have mutually granted each other the full right to present the rector to the parish of Tuhelj, to which, accordingly, the corresponding obligation applies, namely, not to interfere in the turn of the other, depriving the other of what rightfully belongs to him. Therefore, it seems to follow that the possessor of the Razvor estate, today Baroness Ozêgovic, without violating the established turn-based law, or without violating the right of the other, and precisely the freedom of the Church, cannot claim the presentation of the rector of the aforementioned parish for herself. However, the distinction between the case of negligence, in which the right of nomination devolves to the superior, and the case of the absence of a patron, in which the right of the patron accrues to the co-patron, does not seem to be relevant here, as invoked by Baroness Ozêgovic. Indeed, the case in question closely corresponds to that mentioned by Pition in *De Controv. Patron. Alleg.* XC, n. 14, namely, when the turn to nominate is between the Bishop and the Chapter, and the Bishop is excommunicated or suspended, and is therefore rendered incapable of nominating. The aforementioned author then asks whether, in the turn of the incapable Bishop, the Chapter is legally able to nominate, and gives a negative answer. "For," he says, "although there is simultaneity, and its exercise..."

[*Latin ed. p. 693*]

"OF ZAGREB." While the indivisible right remains between the Bishop and the Chapter, the Chapter has the power, by law of consolidation, to confer the office upon the Bishop upon his death or suspension, as is stated in *extra*, title 1, chapter 1. Nevertheless, when the exercise of this right is divided by turns, and the vacancy in the Bishopric pertains only to his own appointment, the Chapter does not have the power to intend to confer the office at that time. This is not to be argued from an equivalence between civil and natural death, for such an equivalence does not hold except in cases expressly stated in the law, as Fagnanus rightly notes in chapter *Quia diversità tem*, number 29, paragraph 29, etc. However, the argument that the right of devolution should indeed apply in this case would be based on the fact that the Church, with regard to the provision of the parish of Tuhelj, appears to enter into possession, by a natural and direct means, of its ancient right or its former freedom for that time, since it cannot be

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deprived of this right in any way by James Brukner, a Jew, who, while on the one hand he truly possesses the estate of Novidvor II, to which a disputed right of patronage is attached, on the other hand, he cannot acquire either the property or the exercise of that right, as he himself ingenuously confessed. Furthermore, the right of free collation of the parish of Tuhelj also seems to arise, because otherwise, excluding the Baroness Ozêgovic, it would not be apparent to whom the right of presentation would belong. Having briefly made these observations, the purpose was to explain the doubt as to whether the decision of the Capitular Vicar of Zagreb can be upheld in this case. RESOLUTION. After careful consideration by the Sacred Congregation on January 28, 1893, it was decided to respond: Affirmative. FROM WHICH IT IS UNDERSTOOD: 1. The alternating presentation between co-patrons fully conforms to canon law; once begun, each co-patron exercises his right in his own turn, independently of the other co-patrons; so that, for that time, the right of patronage seems to belong only to the one whose turn it is.

[*Latin ed. p. 694*]

694. ZAGREB. II. The right of increasing the favor of another patron seems to arise from the fact that the exercise is divided either by turns or by an alternating arrangement; in which case, the entire right seems to be transferred for that turn to the one who acts by his own right, not by a common right. III. The patrons in the parish seem to have been granted, by a constituted alternation, the full right in each turn to present the parish priest, without the intervention of the other patron; which intervention would take place only if the Baroness claimed the presentation of the priest. IV. If a patron is lacking, the Church, by devolution, naturally regains its original freedom in conferring benefices; and this freedom cannot be taken away by an infidel or a Jew; who are incapable of these privileges. FROM THE SACRED CONGREGATION OF RITES, IMOLA. A doubt concerning the valid consecration of an altar. The Most Reverend Aloysius Tesorieri, Bishop of Imola, humbly submitted the following doubt to the Sacred Congregation of Rites for a suitable solution: In the cathedral church of the city of Imola, there is a large altar, which is considered fixed, especially because on the back of it are inscribed the following words: "Cardinal Anthony Rusconius, Bishop of Imola, caused this altar to be built and consecrated this altar." However, a doubt has arisen concerning the validity of its consecration, because, although the table is made of stone, a crown of marble was attached to it at its extremities (it is unknown whether this was done before or after the consecration), so that the table is not truly made of a single stone, as is prescribed for fixed altars. This doubt is further strengthened by the response of the Sacred Congregation of Rites dated August 29, 1885, in Gubbio. Therefore, the question arises: Should this altar be considered

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fixed and consecrated? And, if not, can it be considered a portable altar?

[*Latin ed. p. 695*]

FROM THE SACRED CONGREGATION (regarding RITUAL), and the Sacred Congregation itself, having carefully considered the following report of the undersigned Secretary, it has decided to respond to the following question, namely: Once any defect has been remedied, a fixed altar must be consecrated. And thus it responded on April 23, 1893.

C. CARDINAL ALOISI-MASELLA, S.R.C., Prefect.

L. & S. VINCENTIUS NUSSI, S.R.C., Secretary.

SENIGALLIA.

Questions regarding the vestments to be worn during the solemn blessing after the completion of the Office.

By order of his Most Reverend Bishop, the present Master of Ceremonies in the Cathedral Church of Senigallia has humbly submitted the following questions to the Sacred Congregation of Rites for a suitable solution, namely:

Question I. Whenever, after the completion of the Office, the solemn blessing with the Most Holy Sacrament is administered to the Christian faithful in the cathedral church, may the sacred ministers, in addition to the dalmatic and tunicle worn over the alb, wear only a pluvial? And may the celebrating canon use only the amice, stole, and pluvial, omitting the alb?

Question II. In such a blessing, which is immediately given after the Office, may the sacred ministers not wear vestments of any color that they have previously used for Vespers?

And the Sacred Congregation itself, having carefully considered the following report of the undersigned Secretary, has decided to respond to the following questions, namely:

To Question I. The sacred ministers in this case should wear the dalmatic and tunicle, and the priest celebrating should wear the alb under the pluvial.

To Question II. Only vestments of the color white should be used.

And thus it responded and ordered that it be observed on May 12, 1893.

C. CARDINAL ALOISI-MASELLA, S.R.C., Prefect.

L. & S. VINCENTIUS NUSSI, S.R.C., Secretary.

[*Latin ed. p. 696*]

IMOLE. It is inquired whether the addition of the title "Count" to the name of a Bishop can be tolerated when indulgences are announced after the pontifical blessing. To this must be added another question, posed by the same office of Ceremonies: It has been proposed to the Most Rev-

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erend Congregation, namely: Whether it can be tolerated that a Canon, after the pontifical blessing, publicly announces indulgences, adding the title "Count" to the name of the Bishop; although, according to liturgical laws, it is absolutely forbidden in any way to alter the formulas of the Ceremonial of Bishops and the Pontifical Roman? The Sacred Congregation of Rites, after considering the report of the undersigned Secretary, decided that the aforementioned doubt should be answered with: "No." May 12, 1893. C. CARD. ALOISI-MASELLA, Prefect of the Sacred Congregation. L. S. VINCENTIUS NUSSI, Secretary of the Sacred Congregation. DECREES FROM THE SUPREME CONGREGATION FOR EXTRAORDINARY AFFAIRS concerning the resolution of difficulties regarding the validity of marriages on the island of Melita. December 12, 1890. By order of His Holiness, to resolve any controversies concerning the validity of marriages contracted on the island of Melita, Our Most Holy Lord Leo XIII, by the divine Providence Pope, referring to me, the undersigned Secretary of the Sacred Congregation for Extraordinary Affairs, has, for the purpose of his Apostolic office, decreed the following: 1. Marriages entered into or to be entered into by all who profess the Catholic religion, whether both contracting parties are Catholic, or whether one is Catholic and the other is heterodox, are not valid, unless they have been celebrated according to the form prescribed by the Holy Council of Trent, Session 24, concerning the reform of marriages.

[*Latin ed. p. 697*]

FROM THE SACRED CONGREGATION FOR EXTRAORDINARY AFFAIRS 697 2. Those who profess a cult different from the Catholic faith can validly contract marriage with each other, even if they do not observe the form of the Council of Trent, provided that no other canonical impediment prevents it. Notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on the day, month, and year mentioned above. DOMINIC, ARCHBISHOP OF THESSALONICENSI, Secretary. FROM THE SACRED CONGREGATION OF THE HOLY ROMAN AND UNIVERSAL INQUISITION. Marriages of heretics contracted on the island of Melitensi, without observing the Tridentine form, are validated. Most Blessed Father, the Archbishop and Bishop of Melitensi humbly presents to Your Holiness that, by decree of January 12, 1890, marriages that will be celebrated in the future on the island of Melitensi between non-Catholics have been declared valid, without the form prescribed by the Holy Council of Trent. Since no explicit mention is made in the aforementioned decree regarding marriages previously contracted, in order to remove any doubt and to provide for all marriages celebrated up to that day without the proper form, the Orator earnestly requests Your Holiness to deign to declare those also valid. On the fourth day of the week, in the fourth place, on June 2, 1892. In the General

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Congregation of the Holy Roman and Universal Inquisition, before the Eminent and Reverend Cardinals, General Inquisitors, the aforementioned petition of the Reverend Father, the Archbishop and Bishop of Melitensi, having been presented, and with the vote of the Reverend Consultors, the same Eminent and Reverend Cardinals said: Having considered the petition of the Reverend Father, the Archbishop and Bishop of Melitensi, it is to be requested of the Most Holy [Father] that he declare and decree the marriages of heretics.

[*Latin ed. p. 698*]

698 FROM the Acts of the Congregation of the Inquisition concerning marriages between individuals of different rites, not celebrated according to the Tridentine form, contracted thus far on the island of Melite, are to be considered valid, provided that no other canonical impediment exists. Rome, June 3, 1892. A report concerning these matters was presented to His Holiness, Pope Leo XIII, in an audience by the Reverend Father, the Assessor S. O. His Holiness graciously deigned to approve, according to the votes of the Fathers. J. MANCINI, Secretary of Rites and Universal Instruction.

[*Latin ed. p. 699*]

699 APPENDIX V. EXHIBENS ACTA SEDIS APOST.; AUT QUAE QUAE AUTEMDIU EXARATA SUNT, TEMPESTIVO LATUERUNT EPHEMERIDIS! MODERATOREM. Ex Constitutione. Ex quo primum Benedictus PP. XIV, die 1 Martii 1756, de ministro extremae unctionis. Quamvis Quintadecus in Tractatu 5 de Extrema Unctione asseruerit licere parochis mittere ad aegrotos aliosque petentes Oleum Sanctum infirmorum, ad hoc ut eo in suis infirmitatibus se linant; nihilominus si quis hoc facere attentaret, gravibus poenis a tribunali ecclesiastico plecteretur, vel tamquam abutens Sacramento Ecclesiae, vel tamquam suspectus non rectae fidei circa Sacramentum Extremae Unctionis, ut opportune advertit Clericatus De Sacram. Extr. Unct. decis. 70 n. 32. S. C. S. Officii, 20 Iunii 1866. — Vic. Apost, ad Gallas. Dubia quoad matrimonia inter Gallas. Filiæfamiliae in regione tam Gallorum, quam Sidamarum, traduntur in matrimonium inconsultae, saepe etiam invia, aliquando iussu principis sine ullo ipsorum parentum consensu, plerumque nulla habita ratione diversae religionis, quam vir et mulier profiterentur. Quaeritur igitur: 1. An filiafamilia sic data in matrimonium debeat esse disposita potius ad moriendum quam ad consentiendum, etiamsi solum passive, ut tradatur marito musulmano aut idololatrae aut polygamo? 2. Quatenus tradita sit per vim marito adhuc libero, quem tamen absolute ipsa non amat et non vult, utrum missionarius possit eam exhortari ut faciat de necessitate virtutem, suumque praestet assensum ad legitimandum et convalidandum matrimonium, vi contractum, an satius sit eamdem

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relinquere in statu concubinatus passivi, exspectando possibilem eius libertatem futuram? 3. Utrumdum infelix haec puella in statu passivo continuae violentiae detinetur, possint ei administrari Sacramenta, an debeant negari sicut illis qui versantur in occasione peccati.

[*Latin ed. p. 700*]

700 APPENDIX V. R. It is certain that each and every man ought to prepare his mind in such a way that he would rather choose to die than to be stained by even one sin. It is also certain that a most grievous sin is committed if marriage is contracted knowingly with some impediment that nullifies it. Finally, it is certain that a valid impediment to marriage exists between a Christian woman and a Muslim man, or an idolater, or a polygamist, whether it be the bond of marriage, or disparity of cult, or something similar. Therefore, there can be no doubt that the family about which we are speaking, which is also Christian, ought to be prepared rather to die than to consent in any way to the marriage of a daughter to a Muslim man, or an idolater, or a polygamist. However, missionaries may, through a legitimate dispensation, if they have the power, provide for this, provided that the necessary conditions are met. But above all, they must diligently and tirelessly strive to uproot that most unjust custom, by which daughters of Christian families are forced to marry, not only unwillingly and against their will, but also to polygamists and to non-believers. In the case, however, which is explained in the second and third doubts, it is certainly possible to persuade a woman to give her consent, where nothing else is required to validate the marriage, but she cannot be forced, because marriage ought to be free according to natural law. But if she refuses to give her consent, the Apostolic Vicar and the missionaries must act according to the rules laid down by approved authors. From the Instructions of the Sacred Congregation for the Propagation of the Faith, July 6, 1817. To the Prefect of Missions for Martinique, Guadeloupe, etc. — Catholic principles concerning divorce. It is necessary to establish Catholic principles concerning divorce, concerning that introduction of a law by an author, and concerning the judges who execute or will execute it, or are to execute it. Every divorce, the dissolution of a conjugal bond legitimately contracted and confirmed, among Christians still living, is nothing other than a great offense, and indeed, contrary to natural law (about which theologians dispute among themselves), but certainly contrary to the positive divine law written in Scripture, as is clearly shown by the Council of Trent (session 24, Decree on Holy Marriage), and abundantly demonstrated by Benedict XIV in *De Synodo Dioec.*, book XIII, chapter 22, § 3, and following. Therefore, every law, whether civil or otherwise, that confirms or directs such an offense, is

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null and void by its very nature, by force.

[*Latin ed. p. 701*]

APPENDIX V. 70. It is rather a perversion of the law (D. Th. 12, quaest. 46 a. 4), indeed, a corruption of the law, when, concerning a matter divinely instituted and purely sacramental, and therefore of the highest order, such a thing is introduced, and it proceeds from, and escapes from, all earthly power; moreover, it is manifestly contrary to the divine law, to which all human power is bound and must yield; thus, both the legislator, from whom such a corruption proceeds, and the judge, who serves it and applies it to particular cases, and promotes its execution, usurp an authority that is unlawful in the first place: which is the same as to sin mortally, the one by the usurpation of power, the other by the usurpation of judgment (Leonard. Lessius de Iust. et Iur. Düben. Lib. 2, Cap. 29, p. 288). Both incur the gravest scandal, for, like the Pharisees, they "do and teach according to the traditions of men" (Matth. XV, 3; Mark VII, 9), making the precept of God of none effect. Indeed, they even substitute for the divine declaration: "What therefore God has joined together, let not man separate," the decree: "Those whom man has separated, neither God nor the Church shall reunite," as is stated in article 295 of the aforementioned code. Finally, both are found to be partakers of all the evils that necessarily flow from such nefarious laws. Indeed, when they strive to remove all these accusations by means of the most abused distinction between the contract of marriage and the Sacrament of Matrimony, as if the value, essence, and duration of the former, and conversely, of the latter, were subject to secular power as a rule, and with full right, they certainly increase, rather than diminish, their guilt, as they introduce heresy into the very foundation of impiety. The dogma of the Faith, defined against the Lutherans in the Council of Trent, is that Marriage is truly and properly one of the seven sacraments of the law instituted by our Lord Jesus Christ: "If anyone shall say that Marriage is not truly and properly one of the seven sacraments of the law instituted by Christ the Lord, let him be anathema" (Sess. XXIV, Can. I). Therefore, it is heresy to separate the Sacrament of Matrimony from the contract of marriage as a rule, as if the contract did not involve the very essence and substance of the sacrament, which is of divine institution, nor to consider the Sacrament of Matrimony as anything other than a quality superadded to the contract, or a painted frame surrounding a picture to which it is foreign. Therefore, St. Thomas, in several places, declares the Catholic doctrine on this matter in a fitting manner, concluding: "Therefore, Marriage, insofar as it consists in the union of man and woman, intending to procreate and educate children for the worship of God, is a sacrament of the Church" (Lib. IV, contra gent.

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c. 78). Elsewhere, he affirms that from the union of man and woman,

[*Latin ed. p. 702*]

702 APPENDIX V. "By means of the consent of both parties, a bond, or certain connection, which is the Sacrament of Matrimony, is brought about." (In 4 Sent. dist. 28 a. 3 ad 2). Therefore, Matrimony is a Sacrament because the very contract itself is a Sacrament, or because the contract pertains to the essence and definition of the Sacrament; and this is a Catholic dogma. Although someone might wish to assert that some marriage is not a Sacrament among the faithful, it will always be a matter of faith, and the Sacrament of Matrimony will never be found among the faithful if it is not essentially built upon the contract itself; indeed, in the evangelical law, a marriage contract can exist which is not a Sacrament; but a marriage cannot be a Sacrament in which the contract itself is not a Sacrament. And this dogma is contained in the canon in the aforementioned Council of Trent: "If anyone should say that Matrimony is not truly and properly one of the seven Sacraments of the evangelical law, etc." Therefore, it is heresy, as I say again, to assert that in the evangelical law, the marriage contract can be regularly and essentially separated from the Sacrament of Matrimony, and that the Sacrament is nothing other than a contract adorned, which is indifferent to the value and consistency of itself, or extraneous. It is also a dogma of the faith, equally defined in the Council of Trent, that degrees of consanguinity and affinity, beyond those expressed in Leviticus, have been valid in hindering the contracting of marriage, and in dissolving the contract; that other impediments have been valid in hindering marriage, and that the Church has not erred in establishing them; and finally, that matrimonial causes are to be brought before ecclesiastical judges: "If anyone should say," says the Holy Council (sess. XXIV Can. III, IV, and XII), "that only those degrees of consanguinity and affinity which are expressed in Leviticus can hinder the contracting of marriage, and dissolve the contract, and that the Church cannot grant dispensations in some of them, nor establish that more can hinder and dissolve, let him be anathema. — If anyone should say that the Church could not have established impediments that hinder marriage, or that she has erred in establishing them, let him be anathema. — If anyone should say that matrimonial causes do not pertain to ecclesiastical judges, let him be anathema." Furthermore, in these three canons, which are dogmatic, the true and proper power over the marriage contract is recognized in the Church. For the power to establish impediments that hinder, and to grant dispensations from them, naturally implies the power to either remove or impart validity and value to the marriage contract; likewise, to render the contracting parties either capable or incapable, and to make the contract valid. Furthermore, jurisdiction in matrimonial causes implies the faculty of judging about the contract itself,

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about its very value, consistency, and duration.

[*Latin ed. p. 703*]

APPENDIX V. 703, since the causes and sentences concerning marriage primarily pertain to these matters. Therefore, it is a matter of faith that the Church, by divine institution, possesses true and proper power over the marriage contract of the faithful, not merely over the Sacrament, or over the sacred ceremony alone, which blesses and sanctifies the contract, as some moderns contend, and therefore fall into a new heresy. Finally, we add that, once a system of certain modern laws is adopted, and established as just and legitimate, both with regard to the contract and the Sacrament of Matrimony, so that the former is subject to secular power, and the latter to ecclesiastical power; from this system, it follows that the evangelical law of marriage, sanctified by the grace acquired by Jesus Christ through His Passion, and perfected, and elevated to the dignity of the great Sacrament of the Church, at the same time, by divine disposition, would be opposed by contradictory laws, and perpetually embroiled in conflict between two different powers, while one defends what the other declares invalid; one despises and punishes what the other blesses and sanctifies; one grants civil effects to what the other renders incapable of civil and spiritual effects; all of which would occur justly and appropriately, in accordance with divine, human, and natural rights, which cannot be prescribed; and all of these things, taken together, constitute a monstrous accumulation of heresies and blasphemies.

S. C. S. Office, June 19, 1875 – Doubt concerning dispensations from impediments.

1. Can the Ordinary grant a dispensation in cases of multiple consanguinity, or with relatives who are connected to each other through multiple lines of descent, according to the faculties obtained from the Holy See, as follows: To grant dispensations in the 3rd and 4th degrees of simple and mixed consanguinity and affinity, but not in the 2nd degree alone, regarding future marriages; and to grant dispensations in both forums for Catholics subject to his jurisdiction, in marriages or contracts, or those about to be entered into, concerning the impediment of the 2nd degree of consanguinity or affinity in the collateral line, for one hundred cases.

2. Can a dispensation be granted in cases of multiple affinity?

R. Answer: 1. and 2. Affirmative, provided that Bishops who possess the quinquennial faculty to grant dispensations in the 3rd and 4th degrees of simple and mixed consanguinity and affinity, but not in the 2nd degree alone, regarding future marriages, can grant dispensations in the 3rd, in the 4th, and in the 3rd.

[*Latin ed. p. 704*]

704 APPENDIX V. mixed with 4; nor also in 3 and 4 with 2 mixed, or

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whether the grade originates from a single or from multiple stocks. The Most Holy See approved. S. C. S. Officii, August 26, 1891 – Vic. Ap. Nankien. Doubt concerning the impediment of affinity. Caius, still living in infidelity, has carnal relations with a woman; then, repenting of his deeds and renouncing idolatry, he is duly instructed and baptized. Having received baptism, can Caius lawfully take as his wife the sister of that woman with whom, while living in infidelity, he committed sin? R. The affinity which is naturally contracted in infidelity, whether from a lawful or unlawful union, is not an impediment for marriages entered into while in infidelity; it does, however, become an impediment for marriages entered into after baptism, by which the infidels become subjects of the Church, and are therefore subject to its laws. S. C. Indulg. February 5, 1841 – Valentinen. Doubt concerning the blessing at the point of death. 1. Whether the recitation of the Confiteor, that is, the Confiteor etc., received in the Sacrament of Penance, suffices for the recitation of that which is prescribed, when the blessing with the Indulgence at the point of death is to be administered? 2. Whether it is necessary to recite the Confiteor etc. three times, when the Sacred Viaticum, Extreme Unction, and the Indulgence at the point of death are administered? 3. Whether the sick person can obtain a plenary Indulgence at the point of death from several priests who have the faculty to grant it? 4. Whether the priest validly confers the plenary Indulgence at the point of death, having omitted the formula prescribed by the Supreme Pontiff, due to a lack of the book? R. – To 1. Negatively, according to practice and rubrics, unless necessity compels. – To 2. Affirmatively, according to practice and rubrics. – To 3. Negatively, in the same point of death. – To 4. Negatively, because the formula is not merely directive, but preceptive.

[*Latin ed. p. 705*]

APPENDIX 705. Decree of the Holy Congregation of Indulgences, March 12, 1855. Doubts concerning the blessing at the point of death. Since the Sacred Congregation of Indulgences, in its decree of February 5, 1841, concerning indulgences, under the title "In una Valentinen," gave the following response to the question: "Can a sick person repeatedly obtain the plenary indulgence at the point of death, granted by several priests who have the faculty to administer it?" – the answer was "No." – it is now asked: 1. Does the aforementioned resolution prohibit the granting of the plenary indulgence at the point of death, which is commonly called the "papal blessing," repeatedly to a sick person who remains in the same condition, even if administered by the same priest or by several priests who have the faculty to administer it? 2. Does the same resolution also prohibit the granting of the plenary indulgence at the point of death repeatedly to a sick person in the same circumstances as described above, even if administered by several priests who have the faculty to administer it from a different source, such as through membership in the Confraternity of the Most Holy Rosary, the

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Sacred Scapular of Mount Carmel, the Most Holy Trinity, etc.? The Sacred Congregation of Indulgences, having heard the opinion of the Consultor on these matters at a general meeting held on March 5, 1855, in the Vatican, decided to respond affirmatively to both questions, maintaining the resolution of February 5, 1841, in "In una Valentinen." After presenting these matters to His Holiness in an audience held on March 12 of the same year, His Holiness graciously confirmed the report of the Sacred Congregation. Instruction of the Sacred Congregation of the Holy Office, April 6, 1843. – To the Apostolic Vicars of Oceania. Instruction concerning marriages contracted in certain places in Oceania. Already on May 28, 1835, the Most Reverend Archbishop of *Fermo* had appealed to the Sacred Congregation for the Propagation of the Faith, explaining the difficulties concerning the validity of marriages contracted in certain places in Oceania; and again, on June 20 of the year 1840, he proposed other doubts to the same Sacred Congregation concerning the same matter, namely, that, without any legal impediment and even with the laws of the place favoring it, other marriages are permitted to be contracted after a three-year absence of one of the parties, and he asked what should be done in these cases: 1. If both are unfaithful, and one or both wish to be converted. 2. If both are baptized, and one or both wish to be converted. 3. If the baptism of one or the other is doubtful. 4. If one or both are not baptized.

[*Latin ed. p. 706*]

706 APPENDIX V. The Most Holy Congregation of the Propagation of the Faith, concerning the aforementioned doubts, transmitted them to the Holy Office, where both these doubts, and all other matters pertaining to this subject which had hitherto been sent from Oceania to the Holy See, were most diligently discussed, namely in the session of the Most Eminent General Inquisitors on November 21, 1842, and on December 1 of the same year, and before the Most Holy Fathers on April 6, 1843. His Holiness, Pope Gregory XVI, after carefully considering the matter before him, ordered that the following question be answered: "Concerning marriages contracted in infidelity, if either spouse, or one of them, desires to convert, whether they can enter into other marriages, leaving the former spouse behind." He wrote: "Given the case, and considering also the particular circumstances, there is indeed a just reason to doubt the validity of such marriages, provided that, as has already been communicated by the Most Holy Congregation of the Propagation of the Faith to the Vice-Prefect of Oceania, in the Decree of His Holiness of the fourth feria, June 8, 1836, together with the attached instruction to the Most Eminent Inquisitors; therefore, this should be transmitted to the Apostolic Vicar." The Most Holy Congregation, in order to comply with the highest mandates of His Holiness, transmitted both the Decree and the Instruction of the Most Eminent Inquisitors to the Apostolic Vicar. Two other doubts concern baptized persons, namely,

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whether their baptism is valid, or whether there is a just reason to doubt its validity, and concerning these, His Holiness ordered that the instruction given by the Most Eminent Inquisitors on November 17, 1830, be communicated to the Apostolic Vicar, as the Most Holy Congregation actually transmitted. It should be noted, however, that although baptism is to be considered valid in the cases expressly stated in the decree, with regard to marriages, yet, in the case of a baptism whose validity is reasonably doubted, it is to be understood that it must be re-administered, on the condition that baptism is a sacrament of necessity. And thus, the Most Holy Congregation believes that most of the difficulties which may arise from baptism will be resolved. But with regard to marriages contracted after baptism, the Apostolic Vicar's primary attention must be directed to the validity of the marriage itself. It is certain that a marriage contracted with a condition that is contrary to its very essence, and specifically to its indissolubility, is null, as is stated in Canon [Si conditiones, De conditionibus appositis]. Indeed, many formulas used by Protestants are contaminated by this invalidating condition, in which this condition is expressed in words, such as: "unless you remain in fidelity"; or sometimes the will is expressed sufficiently clearly, either by words alone, or by words and actions, so that, considering the meaning of the words, or the actions, and also the usage and custom of those places, it is understood that there is no consent to a perpetual and indissoluble contract.

[*Latin ed. p. 707*]

APPENDIX V. 707 Although it may be doubted whether a valid marriage can be contracted with an error merely incidental to its indissolubility, because then the general will to contract marriage according to the institution of Christ prevails, and this general will somehow absorbs the error; nevertheless, when a formula is used with that condition explicitly or implicitly stated, it can no longer be the case that the particular error remains absorbed by the general will to contract marriage according to the institution of Christ. Among the formulas containing a condition that vitiates the marriage, a prominent place is held by those used in Transylvania, which are also used by Calvinists in Transylvania and in many other places. The substance of this formula (although it may vary somewhat in its accidental aspects) consists in this: the Protestant minister says to the contracting parties: "Hear the Holy Gospel"; then he reads to them Matthew 19, verse 9. "But I say to you, whoever sends away his wife, except for fornication, etc." with this text they abuse to establish their errors, and the contracting parties, who share in these errors, are warned of the restriction of their consent. After both parties have given their consent, and the same rite continues, they are required to take an oath, in which they mutually promise fidelity as long as either party remains in chastity. Similarly, the formula would be vitiated if the minister, instead of the text of Matthew

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19, used another, for example, Matthew 5:32, "But I say to you, whoever sends away his wife, etc." or Hebrews 13:4, "Marriage is honorable among all, etc." with which they also abuse for the same purpose, especially if, as is customary among them, the minister then gives the contracting parties an instruction or sermon on the mutual duties of spouses, among which they also include the duty of maintaining the union until one party falls into adultery; and finally, the oath, as mentioned above, given in the same rite is sufficient to invalidate the marriage. Regarding other formulas, it should be determined in the same way if they contain, either explicitly or implicitly, a condition that is contrary to the substance of the marriage. Furthermore, since, whether through prayers or exhortations, the formula is sometimes preceded, sometimes postponed, or from the mutual promises of the contracting parties, some vitiating defect may arise, attention must also be paid to such ceremonies; for among them, the formula and the mutual promises are usually equivalent to a pact of this kind, so that the violation of one of them would induce, respectively, the cessation of rights and obligations between the spouses, and therefore the rescission of the matrimonial bond. From all of these things, and even from the surrounding circumstances, it will be easy for the person present to discern what is the erroneous intention of the spouses. Because it could happen that two baptized persons (and we are now speaking of these)

[*Latin ed. p. 708*]

708 APPENDIX V. (when this matter is being considered) may enter into a marriage before a Protestant minister, or before a Prince, declaring that they are entering into the marriage according to the laws, or the custom of the region, in which such marriages are often dissolved for minor reasons; such marriages would be considered invalid. Therefore, in all the cases mentioned above, such marriages can be declared invalid by the Apostolic Vicar, and the power may be granted to the converted party (or parties) to enter into new marriages, without any other canonical impediment intervening. However, certain things must be carefully noted, depending on the diversity of cases and circumstances, so that all may serve the greater progress of the Catholic Religion.

1. If both parties were to come to the Catholic faith, and wished to remain united, in the case of the nullity of their marriage, they should renew their consent. However, it may happen in this case, and in the following cases, that some other canonical impediment may arise. Therefore, the Most Holy Lord grants to the Apostolic Vicar, for a period of ten years, the power to dispense in all impediments of purely ecclesiastical law, except for those in which the Pope himself does not usually grant a dispensation, even in lands of the infidels, and in such particular cases, recourse should be made. Furthermore, the Apostolic Vicar may delegate this power to missionaries in his district, or to those residing with him and possessing this power.

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2. If only one party wished to become Catholic, while the other refused, but still wished to remain in the marriage, the Apostolic Vicar may dispense in mixed marriages, with the usual conditions required by the Church, unless prudence requires otherwise, according to the Apostolic Brief of Pius VIII (March 25, 1830) with instructions to the Apostolic Vicar of Albano, as the Holy Congregation transmits to him, so that he may render judgment as prudence permits. Holy Congregation of the Holy Office, July 22, 1857. Apostolic Vicar of Korea. A doubt concerning a pagan woman living in concubinage who is to be baptized. A pagan woman, having been expelled by her pagan husband, joined herself forty years ago to another gentile man, who had also repudiated his wife, and with whom she has had several children. This woman, having heard of the holy Religion, has been requesting baptism with tears for three years. The pagan man to whom she is joined does not consent to either letting her go, nor to recalling his former wife; the legitimate husband is now deceased. The Holy Father asks that I indicate how provision should be made for the salvation of this woman.

R. According to what has been explained, the woman is free, and, prudently separated from her concubinarius husband, nothing prevents her from being baptized.

[*Latin ed. p. 709*]

APPENDIX V. 709 S. C. S. Officii 20 Iunii 1858 — Vic. Ap. Pondicherien. Casus matrimonii cuiusdam gentilis. Unus gentilis non coniugatus, propter annonae deficientiam suum pagum relinquens, alterius provinciae pagum circiter 30 leucis distantem petiit, mihique iuxta morem suae tribus cum puella gentili undecim aut duodecim annos nata matrimonium contraxit. At, licet dicta puella apud maritum maneret, priusquam illa fuerit iuxta regionis existimationem nubilis, supradictus gentilis, propter causam nobis ignotam, suam uxorem coram magnatibus tribus dimisit, suum natalem pagum repetiit, et post reditum suum in pago vicino, commercium vitae habens cum christianis, Baptismum recepit, de matrimonio supra relato nihil dicens. Anno post Baptismi receptionem secundo, ille cum puella christiana matrimonium contraxit, sed nihil dixit de matrimonio in gentilitate contracto, neque interpellationem fecit, iamiam tres liberos nunc habet ex muliere christiana. Anno autem praeterito puella, quam ipse in matrimonium duxit quando erat gentilis, Baptismum recepit et tunc cum christiano vult nubere. Sed missionarius, in investigatione quam ante matrimonium fecit, primum coniugium in gentilitate ab ea, ut supra, contractum fuisse detegit, et ex eis quae sive ex investigatione memorata dicta fuerunt, sive ex inquisitione facta apud neophyti parentes, ad nostram notitiam pervenit agendi ratio illius supra memo rata; nihil vero ei diximus de validitate aut invaliditate secundi matrimonii ut illius bona fides non tollatur. Interea permissio nubendi puellae recenter baptizatae denegata fuit usquedum

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responsum habeam. Cum res ita sint, quaero: 1. Quid sentiendum est de matrimonio dicti hominis cum puella christiana absque interpellatione et dispensatione contracto, et quid nunc agendum? — 2. Quid faciendum ut puella recenter baptizata licite et valide cum homine christiano alio contrahere possit? R. Ex deductis subsistere primum matrimonium; ideoque R. P. D. Vicarius Ap. Orator curet, prudentiori modo quo fieri potest, partes ad se vocare ad deducenda sua iura et, si nihil in contrarium repererit, redire obliget ad primum coniugium. — Insuper idem Vicarius Ap. suos missionarios hortetur ut opportune instruantur sive cathecumeni, sive neophyti, de obligatione quam habent interpellandi coniugem in infidelitate relictum, antequam ad alia vota transeant, neque ad illa ineunda admittantur nisi propriam libertatem prius comprobaverint.

APPENDIX V. 709, Secret Consistory, June 20, 1858 — Apostolic Vicariate of Pondicherry. Case of the marriage of a certain gentile. A gentile, not married, leaving his village due to a lack of provisions, sought another village in the same province, about 30 leagues distant, and, according to the custom of his tribe, contracted marriage with a gentile girl, eleven or twelve years old. However, although the aforementioned girl remained with the husband, before she was considered, according to the estimation of the region, to be of marriageable age, the aforementioned gentile, for a reason unknown to us, abandoned his wife before the tribal leaders, returned to his native village, and after his return, in a nearby village, having intercourse with Christians, received Baptism, saying nothing about the marriage previously contracted. A year after receiving Baptism, he contracted marriage with a Christian girl, but said nothing about the marriage contracted in gentility, nor did he make any inquiry; now he has three children with the Christian woman. Last year, the girl whom he married when he was a gentile received Baptism, and now she wishes to marry a Christian. But the missionary, in an investigation made before the marriage, discovered that the first marriage had been contracted with her in gentility, as mentioned above, and from the things said either in the aforementioned investigation or in an inquiry made with the parents of the neophyte, the reason for the aforementioned action came to our knowledge; however, we said nothing to him about the validity or invalidity of the second marriage, so that his good faith would not be offended. Meanwhile, permission to marry was denied to the recently baptized girl until I receive a response. Given these circumstances, I ask: 1. What is to be thought of the marriage of the aforementioned man with the Christian girl, contracted without inquiry and dispensation, and what should now be done? — 2. What should be done so that the recently baptized girl can lawfully and validly contract marriage with another Christian man?

Answer: From what has been presented, the first marriage appears to subsist; therefore, the Reverend Apostolic Vicar, the Advocate, should, in the most prudent manner possible, summon the parties to appear in order

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to assert their rights, and, if he finds nothing to the contrary, should obligate them to return to the first marriage. Furthermore, the same Apostolic Vicar should encourage his missionaries to instruct, either the catechumens or the neophytes, about the obligation they have to inquire about a spouse abandoned in infidelity, before they make any other vows, nor should they be admitted to make such vows unless they have first proven their own freedom.

[*Latin ed. p. 710*]

710 APPENDIX V. Instruction of the Sacred Congregation for the Propagation of the Faith, March 28, 1860 – (for Apostolic Vicars among the Gauls). Concerning polygamy among the Gauls. It is most certain that simultaneous polygamy is entirely illicit according to the law of the Gospel, and therefore, after Jesus Christ (Matthew 19) restored marriage to its original sanctity, adding to it the qualities of unity and indissolubility for the sake of the dignity of the Sacrament for the baptized, neither to the infidels, nor to the Jews, nor to any mortal man was it permitted to take more than one wife. Consequently, this divinely restored monogamy, which can only be united to one person by a legitimate and valid marriage, is held as an unshaken dogma of the faith. As for peoples among whom this prohibited plurality of wives is found, it must be diligently investigated whether anything of the marital bond remains in such a corruption of morals. Indeed, there are found among some no wife who is truly their own, but rather it is permitted to each, through lust, to have relations with women, as Saint Jerome relates (Against Jovinian, Book 2, chapter 7). In such a case, the question of the law of marriage would be wrongly raised, but in the conversion of such people to the faith, or of their wives, it is permitted to missionaries that, in particular cases, they follow what they judge to be more favorable to the good of religion and of the party being converted, namely, that those who are not truly bound by any marital bond may be so bound. But although, through a bad custom, it may happen that human beings are bound in such a way, nevertheless, as Saint Thomas says (1-2, question 84, article 4), with regard to the first principles, the immutable law of nature teaches and ordains that men, for the good of the species and of society, must fulfill the office of marriage (Saint Thomas, Against the Gentiles, Book 1, chapter 77), which is gathered from the Apostle (Romans 2:14): "For when the Gentiles, who have not the law, do by nature the things contained in the law, these, who have not the law, are their own law; showing the work of the law written in their hearts, witnessing that the conscience also doth accuse or excuse." Therefore, even though the good of nature is not completely extinguished (Saint Thomas, 1-1, question 85, article 1) among the Gentiles, who are fierce and corrupt, something of a law concerning marriages is found, by which the true reason of marriage is determined. Hence, it follows that in the case of polygamy, whether among

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the infidels or heretics, the first wife must always be considered as the legitimate one, unless some impediment is seen to prevent the marriage. As for the infidels, the impediments of natural law must be considered; for a heretic, also, the impediments of the Catholic Church must be considered, to which he is subject. Also, the form of marriage must be considered, whether it is reduced to a dissoluble agreement, or whether it is contrary to the very essence of marriage. Finally, if a polygamous heretic is converted, he must remain bound to the wife he had before his conversion.

[*Latin ed. p. 711*]

APPENDIX V. 711. With a legitimate wife, having dismissed the others, no interpellation is required, since he cannot avail himself of the Pauline privilege. Heretical women are also presumed to be impediments to marriage, otherwise the impediment of disparity of cult would be invalidating. In this case only, he might choose one of the heretical concubines if he were not united to either the former wife or another woman by a legitimate bond, with renewed consent; however, care must be taken that she also become Catholic, unless a dispensation from the impediment of mixed religion is granted, which is granted for just causes. But in the case where all the concubines are proven to be true, it would be better for him to choose a Catholic woman. This is entrusted to the zeal and prudence of the missionary. An infidel, if he wishes to avail himself of the aforementioned privilege after baptism, if he has only one, and that a legitimate, wife, he is obliged to interpellate her: 1. Whether she wishes to be converted; 2. Whether she at least wishes to live peacefully without offending the Creator. He will accept the one who agrees to either or both, as the laws determine. The same must be said of a woman who wishes to be converted; and in this case, the infidel spouses are judged according to the laws. But for infidel polygamists, a special concession has been made in favor of the faith, namely, that this interpellation must be made only with regard to the first part, namely, whether she wishes to be converted. If the first wife refuses, he can choose any of the others, provided that she also becomes a faithful woman, with renewed consent. These words express the aforementioned faculty granted to missionaries: "to dispense with those gentiles and infidels who have more wives, so that after conversion and baptism, they may retain the one they prefer, if she also becomes faithful, unless the first wife wishes to be converted." Therefore, the first wife has a fuller marital right, and for this reason, if she is converted, she can remain in a legitimate marriage, provided that she does not offend the Creator; but if she wishes to avail herself of the Pauline indulgence, she must be interpellated as noted above, and the missionaries cannot arbitrarily deviate from this rule, but if they find anything worthy of note to the contrary, they must faithfully report it to the Holy Congregation. S. C. S. Office, April 3, 1889 — Vic. Ap. Victoriae Nyanzae. Doubt regarding the validity of marriage. In these regions of Buganda,

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there are two unions between men and women among the infidels. One is in which a woman is given by her parents or relatives to a man precisely for the purpose of marriage, with certain ceremonies observed, and usually with the consent of the woman herself, or even expressly, although the possibility of divorce or polygamy is admitted. And this seems to be a true marriage.

[*Latin ed. p. 712*]

712 APPENDIX V. [Concerning] the union, [it is] established by mutual consent. — Another form of union is one which occurs in this way: A man acquires a woman either through a simple purchase or a donation, not precisely with the intent to effect a marriage, but as a true thing possessed and bought, which can be sold as a true commodity (for in these regions, slaves are considered as things of possession and of the market); the man, however, having this woman, by chance, has relations with her through cohabitation, or for several months, or several years, or even for an undetermined time, or perpetually, as it pleases him, using and enjoying his own property, without intending to confer any right in the matter upon her, nor seeking any consent from her, since he considers her to be fully his possession and incapable of consent. Nor does the woman seem to give any consent, since she considers herself incapable. The question is asked: Is this last union a true and indissoluble marriage?

2. A faithless young man, when chosen as a prince or nobleman, takes several wives, who are given to him either on different days, or even on the same day or moment; he does not, however, take any of them with a special title and dignity of wife. The question is asked: Is a true wife given?

Answer: Regarding the first method of contracting marriage, the marriage is valid, provided that the contract was not made under an express condition of divorce. — Regarding the second method of contracting marriage, the marriage is null.

Answer to 2: There is no true marriage.

[From] the Sacred Congregation of the Holy Office, Decree of August 23, 1852, concerning a doubt regarding a marriage impediment due to a crime. A faithless man who had intercourse before Baptism with a faithless woman who was the wife of another, to whom, with the woman's consent, he inflicted death, can he, after the baptism of both, enter into marriage with the said woman?

2. Can they contract this marriage if, when they committed these crimes, one party was a Christian?

Answer: 1. Affirmative.

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Answer to 2: Negative.

[*Latin ed. p. 713*]

713 LETTER from His Holiness Pope Leo XIII to the Most Reverend Emmet Gibbons, Archbishop of Baltimore, in which the decrees already issued concerning parish schools are reaffirmed. We have often expressed our concern for the faithful and for the ecclesiastical authorities of the United States of America, and our special benevolence towards this part of the Lord's flock. To this has been added a clear demonstration of Our sentiments, which We have sent to you in Our Venerable Brother Francis, Archbishop titular of Naupactus, a distinguished man, outstanding in both doctrine and virtue; as you yourselves testified openly at the recent meeting of Archbishops held in New York, thereby confirming the trust that We had placed in his prudence. Moreover, his mission served to publicly demonstrate Our goodwill towards your country and Our high regard for those who govern this republic, for he was to be present in Our name at the dedication of a very large exhibition of all kinds of excellent things in the city of Chicago, to which We ourselves were invited by those same dignitaries. But furthermore, the purpose of this mission was to establish a permanent presence of Ours among you, through the establishment of a permanent Apostolic Delegation in Washington. By this action, We have clearly declared not only that We hold your nation in equal esteem with the other most flourishing nations to which We are accustomed to send men of authority, but also that We earnestly desire that the bonds of mutual connection between your faithful and Ourselves may grow ever stronger, as between children and their father. We have indeed found great comfort in the fact that this new expression of Our care for you has been followed here by a common understanding of the meaning of Our grace and Our concern. Indeed, in Our paternal solicitude for you, We have especially instructed the Archbishop of Naupactus to exert all his efforts and fraternal charity to eliminate all seeds of discord in the well-known controversies concerning the proper institution of Catholic youth; controversies to which, at that time, were added certain widely circulated doctrines and opinions that had provoked much debate. Our Venerable Brother fully complied with these instructions of Ours, and in the month of November...

[*Latin ed. p. 714*]

714 Letters arrived from New York of the preceding year, wherein you, our beloved Son, and the other Archbishops of that region had convened, at our request, which had been communicated to you by the Sacred Congregation of Propaganda Fide, so that, after previously consulting with their suffragans, they might confer and deliberate on the best means of providing for the faithful children who attend Catholic schools, concerning the establishment of public gymnasiums. Those matters which you wisely de-

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creed at that assembly pleased the Archbishop of Naupactus, who, having praised your prudence for its merit, considered that the best benefits would result from them. We confirm this judgment with a most pleasing spirit, and we give praise to you and to the other Prelates who were with you, because your counsel corresponded appropriately to our intention and expectation. At that time, that venerable brother, wishing, as it was our desire, to discuss matters concerning the proper upbringing of youth, about which, as we have already said, there was a heated debate, with inflamed spirits and intense study, and even with published writings, presented to you certain proposals which he had prepared, concerning two orders in which knowledge of the truth and the practice of life are contained. After the assembly of Archbishops had carefully considered these proposals, and after certain clarifications and amendments had been requested, the Archbishop of Naupactus readily provided them. With this accomplished, the distinguished assembly concluded its sessions, expressing feelings of gratitude and declaring that it had proven to itself that it had fulfilled the particular task entrusted to it by Us. Having learned all of this from the records of that assembly which you sent to Us, it is truly the case that those very proposals, when published for the public, immediately aroused new controversies, which then, through false interpretations and malicious insinuations disseminated by newspapers, became more widespread and more intense. Then, certain sacred prelates of your region, whether because they found the interpretations with which some of those proposals were explained to be objectionable, or because they feared the consequences which, in their opinion, might be drawn from them to the detriment of souls, openly revealed to Us the cause of their anxiety. We, remembering that the salvation of souls is the supreme law, which We must, above all, observe, and also desiring to offer you a new pledge of Our paternal care, wished that each of you should receive,

[*Latin ed. p. 715*]

In private letters, you have freely made known to Us your judgment concerning this matter, which you have done individually and diligently. Through these letters, We have easily ascertained that some of you have found nothing in those very propositions that would cause alarm; while others seem to believe that those propositions, in part, abrogate the disciplinary law established by the Synods of Baltimore, and therefore, they fear that a different interpretation of them might give rise to grievous dissensions, to the detriment of Catholic schools. Having seriously considered this matter, We are convinced that such interpretations are entirely foreign to the mind of Our representative, and are, indeed, far removed from the judgment of this Apostolic See. Certainly, the principal propositions presented by him were drawn from the decrees of the Third Baltimore Council, and they expressly state that Catholic schools should be promoted with the

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greatest diligence, and that it should be left to the judgment and conscience of the Ordinary to determine when it is permissible or not for Catholic schools to attend public schools. Indeed, if anything stated later is to be understood in such a way that it is consistent with, and does not contradict, what has been said previously, it is clearly improper and unfair to explain the second matter in such a way that it differs from the first. This is all the more true when the writer's intention is in no way obscure. Moreover, when he presented his propositions in the esteemed assembly of New York, he openly testified (as is evident from the records) that he admired the pastoral zeal of the Bishops of North America, because of the wise decrees that had been promulgated in the Third Baltimore Council, for the advancement of the cause of Catholic youth. He further added that those decrees, as they provide a general rule of conduct, should be faithfully observed; and although public schools are to be thoroughly disapproved of (since cases may arise, as the Synods themselves have seen, in which it may be permissible to attend them), every effort and means should be employed to ensure that there are as many Catholic schools as possible, and that they are adorned and perfected in every way. Furthermore, so that there may be no reason for future ambiguity or disagreement of opinions on a matter of such importance, as We have already declared in Our letters of May 23rd of the previous year, addressed to the Venerable Archbishops and Bishops of the ecclesiastical province of New York, We declare again, as it is necessary, that the decrees must be faithfully observed, namely, those which,

[*Latin ed. p. 716*]

716 Letters, mindful of the exhortations of the Apostolic See, have been established in the Synods of Baltimore concerning parochial schools, and whatever else has been prescribed by the Roman Pontiffs, either directly or through the Sacred Congregations, for the same purpose. From this, we are certainly hopeful (which your devotion to Us and the Apostolic See greatly fosters) that nothing will stand in the way of you, with the most perfect and united hearts in charity, diligently working to spread the Kingdom of God ever more in this part of the world, which is so widely known throughout the earth, once any cause for error or anxiety has been removed. While you strive to care for the glory of God and the salvation of the souls entrusted to you, also strive to benefit your fellow citizens and to demonstrate the love of your country, so that those who govern the republic may readily understand how strong a support the Catholic Church provides for maintaining the order of the state and increasing the prosperity of the people. And as for you, Our beloved Son, we are certain that you are diligently concerned that those who communicate their sentiments to you may also make them known to the Venerable Brothers in these federated states, and that they will strive, as much as they can, to ensure that, as is most desirable, the controversy that has stirred them up may subside, and that those whose

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minds it has disturbed may find rest in mutual goodwill. In the meantime, we impart to you, and to those Venerable Brothers, the Clergy, and the faithful to whose care you have been entrusted, Our paternal blessing, as a testament to Our love, in the Lord. Given in Rome, at St. Peter's, on the 31st of May, in the year 1893, in the sixteenth year of Our pontificate.

I-S-fi EPISTOLASSmiD. N. Leonis XIII concerning the establishment of Colleges for Clergy in Eastern India. To the extreme eastern shores, explored by the Portuguese through their courage and virtue, where so many daily aspire to prosperous commerce, We, with a hope of far greater things in mind, have from the very beginning of Our pontificate directed Our mind and thoughts. — The vast expanse of India, in which, for so many centuries, the labors of evangelical men have been expended, excites in Us, with great charity and zeal, immense feelings. In the first place, the blessed Thomas...

[*Latin ed. p. 717*]

Letter 717 from the Apostle comes to mind, which was promulgated to the Indians, and is rightly attributed to its author: also, to Saint Francis Xavier, who, with incredible constancy and charity, achieved great renown, converting hundreds of thousands of Indians from the errors of Brahmanism and impure superstition to the true religion and the faith. Many most holy men, from both Orders of the Clergy, following him, and with the authority and mandate of the Apostolic See, have diligently striven, and continue to strive, to defend and promote the Christian sacraments and institutions which Thomas brought, and which Xavier established. Nevertheless, in so vast a region as this, how far are we, with all our efforts, from the truth, surrounded as it is by the darkness of superstition! How much land, especially to the north, has not yet been subjected to the preaching of the Gospel for any reason! Considering these things, we place great confidence in the benignity and mercy of our Savior, God, who alone knows the opportune times for imparting the light of His grace, and who often moves the minds of men to the path of salvation through a hidden breath of heaven; but, as far as it is in us, we desire and ought to strive to ensure that some part of this world may experience the fruit of our endeavors.

With this purpose in mind, having carefully considered whether it would be fitting and beneficial to arrange and increase the Christian cause in the East Indies in some way, we have determined certain things that will be beneficial to the safety of the Catholic name. First of all, we have rightly agreed with the most faithful King of Portugal and the Algarves, regarding the restoration of the patronage of the Portuguese nation in the East Indies, and have received his consent. And with this accomplished, those dissensions, which for so long had distracted the minds of Christians, have ceased, with the causes of contention removed. Furthermore, we judged it to be timely and salutary to unite, from among the Christian

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communities which had previously been subject to Vicars Apostolic or Prefects, true dioceses, which would have their own Bishops, and would be administered according to the proper law. Therefore, through the apostolic letters *Humanae salutis*, dated September 1st, in the year 1886, a new hierarchy was established in those regions, which consists of eight ecclesiastical provinces, namely: Goa, with the patriarchal title added for honor; Agra, Bombay, Verapoly, Calcutta, Madras, Pondicherry, and Columbus. Finally, whatever we understand to be fruitful for salvation, whatever we deem expedient for the growth of piety and faith, we constantly strive to effect through our Sacred Council, for the propagation of the Christian name.

[*Latin ed. p. 718*]

718 LETTER K. But there remains one other matter, upon which the salvation of India greatly depends, and to which we wish you, Venerable Brothers, and all those who love humanity and the Christian name, to pay greater attention. For the Catholic faith among the Indians will remain in a state of precarious security, and its propagation will remain uncertain, as long as the clergy desired are not chosen from among the natives, properly instructed for the priestly duties, who will not only be an aid to foreign priests, but will themselves be able to administer the Christian religion correctly in their own land. It is well known that this very sentiment was held by Saint Francis Xavier, whom some are said to have denied, that the Christian religion cannot be firmly established in India unless it is constantly supported by pious and zealous priests born in India. And this is easily apparent, for the work of apostolic men who are brought from Europe is hindered by many things, especially by the ignorance of the vernacular language, which is difficult to acquire; and also by the customs and manners, to which one does not become accustomed even in a short time: so that European clergy are, as it were, in a foreign land. Therefore, since the multitude is reluctant to believe the words of foreigners, it is clear that native priests will undoubtedly be of far more fruitful service. For they have studied the customs, the intelligence, and the manners of their own people; they know when to speak, and when to be silent; finally, Indians live among Indians without any suspicion: which it is hardly necessary to say, is of great importance, especially in times of unrest. Furthermore, it must be noted that the missionaries brought from abroad are far too few to suffice for the instruction of the Christian communities that now exist. This is clearly evident from the records of the missions: and from this it is confirmed that the missions of India ceaselessly implore and urge that other and other heralds of the Gospel be sought for the propagation of the Christian name. Indeed, if there are not even enough priests from abroad to provide for the needs of the souls at the present time, what will happen in the future, as the number of Christians increases? For there is no hope that

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the number sent from Europe will increase in proportion. Therefore, if we wish to promote the salvation of the Indians, and to establish the Christian name on a foundation of lasting hope in that vast region, it is necessary to choose men from among the natives, who, with diligent preparation, may fulfill the priestly duties and offices. Thirdly, it must not be overlooked that, although it is very different from the true situation, it sometimes happens that...

[*Latin ed. p. 719*]

719. No one can deny that there have been times in Europe and Asia when circumstances, through force and necessity, have compelled foreign priests to leave India. Once this has happened, if there is no native clergy capable of maintaining the faith, who will administer the sacraments or instruct the people? History clearly demonstrates this in the cases of the Chinese, the Japanese, and the Ethiopians. Indeed, in Japan and China, when the Christian faith was met with hatred and persecution, and foreign priests were killed or exiled, the native Christians flourished. These individuals, thoroughly versed in their own language and customs, and bound by ties of kinship and friendship, not only remained safe in their homeland, but were able to administer the sacraments and freely perform all duties pertaining to the care of souls in all provinces. In contrast, in Ethiopia, where there were already hundreds of thousands of Christians, the fruit of long years of labor was utterly destroyed by the storm of persecution that followed the killing or expulsion of European missionaries, since there was no native clergy. Finally, we must consider antiquity, and whatever was once established in a wholesome manner, we must religiously preserve. Indeed, in the exercise of the apostolic office, it was the custom and the practice of the Apostles to first instruct the multitude in Christian precepts, and then to select some from among the people and to prepare them for the priesthood, and to raise them to the episcopate. Their successors, the Popes of Rome, have always been accustomed to give instructions to apostolic missionaries, urging them to strive with all their might to select native clergy wherever a sufficiently large community of Christians has been established. Therefore, in order to promote the safety and spread of the Catholic faith among the Indians, it is necessary to train Indians for the priesthood, so that they may be able to administer the sacraments and lead their Christian people, whatever circumstances may arise. For this reason, the Prefects of Missions, with the counsel and encouragement of the Apostolic See, have decided to establish colleges for the training of native clergy wherever possible. Moreover, at the Synods of Calcutta, Bangalore, and Allahabad, held in the year 1887, it was decreed that each diocese should have its own seminary for the training of native clergy; and if any of the suffragan bishops are prevented by lack of resources from establishing their own, the metropolitan bishop shall provide for the training of native clergy at

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his own expense. These salutary decrees are being implemented by the bishops to the best of their ability; but in their...

[*Latin ed. p. 720*]

720 Letters reveal the pressing need to address the difficulties of family life, and the scarcity of suitable priests who can provide wise guidance and govern the discipline of the Church. Consequently, there is scarcely any seminary where the education of students is fully carried out and diligently pursued; and this at a time when civil authorities and Protestants spare no expense nor effort to ensure that all youth are educated with refinement and learning. Therefore, it becomes clear how opportune, and how conducive to the public good, it would be to establish certain colleges in the Orient, where young native inhabitants might be educated with all the elegance of doctrine, and instilled with those virtues without which the sacred duties cannot be performed either holily or usefully. If, after the causes of discord have been removed through agreements and a properly organized administration of the dioceses by the ecclesiastical hierarchy, it should be permissible for Us to contribute to the establishment of such colleges, as We intend, We shall seem to have undertaken a significant task. For, as We have said, once such colleges for clerics are established, there would be a certain hope that a large number of suitable priests would emerge from them, who would spread the light of piety and doctrine far and wide, and who would devote the major part of their efforts to the dissemination of the truth of the Gospel. In such a noble endeavor, and one that will be of benefit to the salvation of countless souls, it is fitting for someone from Europe to contribute; especially since we alone cannot bear the full magnitude of the expenses. It is the duty of all Christians, wherever they may live, to regard each other as brothers, and to consider no one as alien to their charity; and this is especially true in matters that concern the eternal salvation of others. Therefore, We earnestly request you, Venerable Brothers, to assist our plans and endeavors in this matter, as far as it is within your power. Let it be known that the condition of the Catholic faith in such remote regions requires attention; let it be understood that something must be done for the benefit of the Orient; and let those who believe that the best use of their money is to do good, feel this most keenly. We are certain that We have not invoked in vain the generous will of your people. If a greater liberality is shown than is necessary for the colleges mentioned above, whatever remains of the funds contributed will be used for other worthwhile and pious endeavors. With the blessings of heaven, and with our paternal affection,

[*Latin ed. p. 721*]

To our Venerable Brothers, we impart, as a witness to our affection, the Apostolic Blessing to you and to your clergy and people. Given at Rome,

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near St. Peter, on the 24th of June, in the year 1893, in the sixteenth year of Our Pontificate.

LETTERS OF POPE LEO XIII. Concerning the Consistory held on the 12th of June, 1893.

1. The Most Holy Father held a secret Consistory on the 12th of June, in which he created and announced Cardinals of the Holy Roman Church:

* Reverend Father Victor Lucian Sulpitium Lécot, Archbishop of Burdigala.

* Reverend Father Joseph Maria Granniello, of the regular clergy of St. Paul.

* Reverend Father Joseph Christian Ernest Bourret, Bishop of Ruthenia.

* Reverend Father Laurent Schlauch, Bishop of Magno-Varadinea.

* Reverend Father Joseph Sarto, Bishop of Mantua.

Afterwards, the Most Holy Father proposed the following:

* The Cathedral Church of the suburbic vicariate of Tusculan, vacant through the death of the Most Reverend Monsignor Thomas, while he lived, the Cardinal-Bishop of the Holy Roman Church, Zigliara, the last of that prelate having died near the Roman Curia; which was desired by His Most Reverend and Noble Lord Seraphinus, with the title of St. Jerome of the Illyrians, himself a Cardinal-Priest of the Holy Roman Church, Vannutelli, Archbishop of Bologna, having relinquished the aforementioned priestly title.

* The titular Archiepiscopal Church of Damiata, vacant through the assignment of the title of St. Peter in Vinculis to His Most Reverend and Noble Lord Ignatius, a Cardinal-Priest of the Holy Roman Church, Persico, with the favor of Reverend Father Andrea Ajuti, Archbishop of Achrida.

* The titular Archiepiscopal Church of Antiochena Pisidia, certainly vacant, with the favor of Reverend Father Henry of the Marchionibus de Rossi, Bishop of Caserta.

* The Metropolitan Church of Ferrara, vacant through the death of the Most Reverend Monsignor Aloisi, while he lived, the Cardinal-Priest of the Holy Roman Church, Giordani, the last of that Archbishop having died outside the Roman Curia; with the favor of Reverend Father Francis Aegidius Mauri, of the Order of Preachers, Bishop of Auxima and Cingulana.

* The titular Archiepiscopal Church of Philippopolis, with the favor of Reverend Father Macarius Sorini, Bishop of Fabriana and Matelica.

* The Cathedral Church of Reinen, vacant through the translation to the See of Arezzo of Reverend Father Dominus Donnini; with the favor of Reverend Father Amilcar Tonietti, Bishop of Massa.

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Acts, Volume XXV, page 46.

[*Latin ed. p. 722*]

722 FROM THE CONSISTORY ACTS: The Cathedral Church of Aesi is vacant, due to the death of the Most Reverend Rambaldi Magagnini, the last Bishop, who died outside the Roman Curia; with the favor of the Most Reverend Aurelius Zonghi, Bishop of Septempeda, or Saint Severin. The Cathedral Church of Signina is vacant, due to the death of the Most Reverend Blasius Sibilia, the last Bishop, who died outside the Roman Curia, with the favor of the Most Reverend Constantine Costar of the Congregation of the Most Holy Cross and Passion of Our Lord Jesus Christ, Bishop of Antipatrid. The Cathedral Church of Luceria is vacant, due to the death of the Reverend Carmelite Ciotola, the last Bishop, who died outside the Roman Curia, with the favor of the Most Reverend Joseph Consenti of the Congregation of the Most Holy Redeemer, Bishop of Nusca. The Cathedral Church of Fodiano is vacant, due to the promotion of the Reverend Dominic Marinangeli to the Metropolitan Sees of Tranensera and Barolesa, united in their entirety, with the Archiepiscopal title of Nazarene, and with the perpetual Episcopal administration of the Church of Vigiliensis, with the favor of the Reverend Charles Mola, a priest of the Neapolitan Congregation of Saint Philip Neri. The Reverend Charles Mola, born of legitimate, Catholic, and honorable parents in Naples, and having reached the sixty-first year of his age, distinguished himself in the Congregation of the Oratory of Saint Philip Neri, to which he was assigned to perform ecclesiastical functions, notably by preaching the Word of God and hearing confessions of both sexes; and the Reverend resigned from the office of Clerical Revisor. The Cathedral Church of Puteoli is vacant, due to the death of the Most Reverend January de Vivo, the last Bishop, who died outside the Roman Curia, with the favor of the Most Reverend Michael Zezza Zapponeta, titular Bishop of Calydon and Auxiliary Archbishop of Naples. The Cathedral Church of Nusca is vacant, due to the translation of the Most Reverend Joseph Consenti of the Congregation of the Most Holy Redeemer to the See of Luceria, with the favor of the Most Reverend Aemilius Todisco-Grande, Bishop of Arcadiopolis. The Cathedral Church of Septempeda, or Saint Severin, is vacant, due to the translation of the Most Reverend Aurelius Zonghi to the See of Aesi, with the favor of the Reverend Joshua Biechi, a priest of the Diocese of Tifernata, or Città di Castello. The Reverend Joshua Biechi, born of legitimate, Catholic, and honorable parents in the land of Saint Justin, in the Diocese of Tifernata, and having reached the fiftieth year of his age, after being attached to the Pontifical Seminary of Pius, there received the order of priesthood, and later was awarded a doctoral degree in sacred theology and in both laws, was elected Canon Theologus of the Cathedral Basilica of Tifernata, and performed the office of Vicar General. The Cathedral Church of Caserta is

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vacant, due to the promotion of the Reverend Henry of the House of Rossi to the titular Archiepiscopal Church of Antioch in Pisidia, with the favor of the Most Reverend January Cosenza, titular Bishop of Dioclensis. The Cathedral Church of Anglonense-Tursiense is vacant, due to the death of the Most Reverend Roch Leonasi, the last Bishop, who died outside the Roman Curia, with the favor of the Reverend Seraphin Angelini, a priest of the Diocese of Marsorum. The Reverend Seraphin Angelini, born of legitimate, Catholic, and honorable parents in the land of Carseolarum, Carsòli, in the Diocese of Marsorum, and having reached the forty-fifth year of his age, has until now held the office of Archpriest-Curate in his homeland. In the meantime, he has performed the duties of Vicar Forane, Episcopal Pro-Synodal Examiner, and finally, in the Seminary of Marsorum, where he skillfully taught dogmatic and moral theology. The Cathedral Church of Panno is vacant, due to the death of the Most Reverend John Andrea Miotti, the last Bishop, who died outside the Roman Curia, with the favor of the Reverend Francis.

[*Latin ed. p. 723*]

FROM THE CONSISTORY ACTS 723, Morning. The Reverend Father Francis, a priest of Pavia. He, born of legitimate, Catholic, and honorable parents in Pavia, having surpassed his sixtieth year, and recently having been awarded a doctorate in sacred theology, has been appointed to the Cathedral Church of Usellen, by translation to the Metropolitan See of Oristano, under the favor of the Reverend Father Palmerio Garau, a priest of the Archdiocese of Cagliari. He, born of legitimate, Catholic, and honorable parents in the town of Samassi, in the Archdiocese of Cagliari, and having reached his eightieth year, having recently been awarded a doctorate in sacred theology, previously served as a canon of the Chapter of Cagliari, and is currently holding the office of Dean. The Cathedral Churches of Isernia and Venafra, perpetually and canonically united, are vacant, by translation of the Reverend Father Francis Paul Carrano to the See of Aquila, under the favor of the Reverend Father Nicholas Merola, a priest of Ascoli Satriano. He, born of legitimate, Catholic, and honorable parents in Ascoli Satriano, having reached his fifty-ninth year, and having been appointed as a member of the Synodal Examiners, currently serves as the general provicar for spiritual affairs. The Cathedral Church of Lanusei is vacant, by translation of the Reverend Father Anthony Mary Contini to the united Sees of Ampurias and Teimples, under the favor of the Reverend Father Salvatore Depau, a priest of the Diocese of Lanusei. He, born of legitimate, Catholic, and honorable parents in Ulassai, in the Diocese of Lanusei, and having reached his sixty-second year, having recently been awarded a doctorate in sacred theology, previously served as the parochial vicar in the town of Ilbono, and has recently resigned from the office of Archpriest of the Cathedral of Lanusei, with pastoral care. The titular Episcopal Church

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of Canopus, under the Patriarch of Alexandria, is vacant, by translation of the Reverend Father Nicholas Aloysius Gallagher to the See of Galveston, under the favor of the Reverend Father Ferdinand Cleri, a priest of the Diocese of Nusco; who was also appointed as a coadjutor bishop with succession, along with the Reverend Father Joseph Mary Cione, the Bishop of Policastro. The titular Episcopal Church of Arabis, under the Metropolitan of Malta, is vacant, by translation to the titular Archiepiscopal Church of Sebaste, of the Reverend Father Placid Louis Chapelle, a coadjutor bishop with succession to the Archbishop of the Holy Faith in the United States of America, under the favor of the Reverend Father William Stagno and the nobles of Alcontres, a priest of Messina; who was also appointed as an auxiliary bishop to the Most Reverend and Eminent Lord Joseph, with the title of Saint Thomas in Piacenza, of the Sacred Roman Empire, a Cardinal Archbishop of Messina. The Reverend Father William Stagno, born of legitimate, Catholic, and noble parents in Messina, and having reached his fifty-second year, has recently resigned from his position as a canon of the Chapter of Messina.

[*Latin ed. p. 724*]

724 FROM THE HOLY CONGREGATION OF THE COUNCIL OF TRENT, CONCERNING THE COMMUTATION AND REDUCTION OF BURDENS, dated January 28, 1893. Through summary petitions. A SUMMARY OF THE CASE. The Reverend Father Luke Siliquini, pastor of the parish church of Saint Peter the Apostle in the town of Castineani, stated: that his parish possesses a territory extending ten kilometers and contains 2403 souls, with an income of 500 livres; that in the administration of this parish, he is assisted by one chaplain, whose duty is only to attend to the sick and dying; whereas, before the establishment of this civil government, he was assisted by six priests, in addition to the aforementioned chaplain, providing complete spiritual service to the people, which is now insufficient, since all assistance is lacking. However, two pious sodalities are attached to the parish; these, together with the sacristy of the parish church, involve a burden of 443 Masses, for which 510.95 livres are collected. Furthermore, the sodalities contribute 120 livres to the chaplain and 27 livres to the sacristan; thus, the total burdens amount to 657.95 livres. Regarding this matter, the humble petitioner requested that the number of Masses be reduced to two in each month, etc., and that other measures of this kind be taken, "so that better provision may be made for the good of the souls entrusted to him." When asked, the Bishop, after duly gathering the sodalities and obtaining their information and vote, wrote the following shortly thereafter: "The Sodality of the Most Holy Sacrament and the Rosary of Castineani, duly assembled on the 11th of the current month, with all votes, approved the request presented to the Holy Congregation by the pastor, Father Luke Siliquini of Saint Peter in

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Lucca. And indeed, the situation in that parish is such that, unless at least two priests are added to assist the pastor in carrying out the parochial duties, there is great reason to fear that things will become worse over time, as the pastor himself stated. Therefore, I believe that, if the Most Reverend Lords also deem it fitting, the plan that the pastor himself manifested in his petitions may be approved."

[*Latin ed. p. 725*]

MONTISALTI 725. A Synopsis of Disputations. PRAYERS TO BE GRANTED ARE SEEN. It is clearly evident that the commutation of vows and, especially, the reduction of Masses, are considered by themselves odious and subversive of pious institutions, and are therefore disapproved by the sacred canons. Canon. The last will, question 13, article 2; I. 2 of the Code of Sacred Church Law of Clement. Concerning religious, see the decree of the Council of Trent, session 22, chapter 6, On Reform. This Sacred Congregation has always been very diligent in adhering to the decrees of the Council of Trent, insisting that the sacrifices of the Mass be rigorously celebrated for the expiation of souls, and that the pious institutions be maintained in a holy and religious manner, and that they not be altered, even for a better purpose, where they can be conveniently fulfilled, as can be seen in the Florentine Decree on the Reduction of Burdens, August 26, 1820; in the Tolentine Decree on the Commutation of Vows, April 22, 1826; in the Praenestine Decree on the Day of Reduction, January 28, 1854; and in many others. It is, however, more pertinent to recall that the Sacred Congregation of the Council, in the Decree on the Reduction of Masses and the Erection of Chapels, July 19, 1828, responded to the first question, stating that it was not advisable to grant a reduction of Masses based on the request of several ecclesiastical dignitaries of the metropolitan archdiocese, which the Archbishop had requested in order that two choral chapels might be erected, even though the necessity of this erection for the benefit of choral service was asserted. Furthermore, in the matter under consideration, the number of Masses for which a reduction is requested appears to be excessive, since only two Masses would be celebrated each month out of a total of 400; and it may not seem that there was any great necessity for this extraordinary concession, beyond all doubt. PRAYERS TO BE GRANTED ARE SEEN. Nevertheless, it must be considered that the same Council of Trent, in chapter 6, session 2, On Reform, and generally the Sacred Congregation of the Council, have admitted commutations of burdens and reductions, whenever there was a just and necessary cause. Among these, it has been determined that the good of the people, that is, the salvation of souls, should take precedence, so that the Sacred Congregation has expressly stated on several occasions that pious burdens should be reduced either to increase the majesty of

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divine worship or to assist the pastors.

[*Latin ed. p. 726*]

726 To alleviate the needs of Montisalto, or so that the people might more easily fulfill the precept of hearing the sacred word, or finally, to procure some spiritual aid for the faithful. The decree of the Union and Reduction of Spoleta, May 29, 1824; the decree of the Reduction of Masses of Cagliari, September 13, 1834; and the decrees of the Reduction of Brugnato, August 27 and September 17, 1831. But since a just and necessary cause for granting this grace appears to concur, and this is established by proven facts, it would seem that there is no reason to doubt it, after what the parish priest reported to the Most Holy Congregation. Furthermore, it must be remembered that in such concessions, the Most Holy Congregation is accustomed to take the opinion of the Ordinary into the greatest consideration, who, being best informed about the state of his diocese, and concerned for the salvation of the flock entrusted to him, is justly considered. These matters briefly stated, the question was raised as to what should be said in prayer. RESOLUTION. The Sacred Congregation, after deliberation on January 28, 1893, decided to respond: "According to the prudent judgment and conscience of the Bishop." BORDEAUX (-BAZAS). MARRIAGE. On March 18, 1893. Session 24, chapter 3, concerning reforms in marriage. SUMMARY OF THE FACTS. Edward Guillouzic, a military officer, aged 39, and Maria Emilia Henrica Rogues de Fursac, having already passed her 30th year, sent letters to the Vicar General of Bordeaux on September 24 and 25, 1891, in which they requested that a marriage be declared null, because of the wife's impotence, a marriage which they had duly contracted in the presence of the Church in the town of Fontenay-le-Comte on December 18, 1882. The spouses maintained a peaceful union throughout their lives, and even after presenting this petition to the Curia, they appear to have continued to live together for a short time.

[*Latin ed. p. 727*]

BORDEAUX. In the year 1892, on the 1st of October, the Archbishop of Bordeaux appointed Mr. Tourreau, his general vicar, as judge to investigate this matter, and also appointed a defender of the marriage and a notary. At the beginning of the proceedings, no mention is made of an oath taken by these individuals; however, in the judgment pronounced by the judge, when it is stated that the Archbishop had appointed a defender of the marriage and a notary, it is added: "who, having fulfilled the duties entrusted to them, swore an oath, touching the Gospels." Edward and Mary had made their confession in court on December 28, 1892, and witnesses from both sides were appointed to be heard. These witnesses were subsequently questioned in various dioceses, where they resided. However, it should be noted that they were questioned before the respective general vicars,

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and that neither the delegated defender of the marriage nor, in most cases, the notary, were present at the examination. Furthermore, some of the witnesses summoned were not actually present. Finally, the examination of Mary's body appears to have taken place on January 2, 1892, on which day two doctors, Denuce and Le Barillier, wrote and signed a declaration, and were questioned by the judge. However, there is no specific mention in the records of the manner in which this examination was conducted, nor of the place where it took place. Moreover, it is to be remembered that the spouses Guillouzic had, in the meantime, consulted civil authorities in order to obtain a declaration of the nullity of their marriage, and that the effects of their marriage vows had indeed been annulled by a judgment dated February 26, 1892. This judgment was based on the depositions of three experts, Audé, Denucé, and Le Barillier; and it was declared that there was no marriage, because the woman had neither uterus nor vagina, so that, according to the judgment of these experts, she was neither woman nor man. Finally, on April 29th of the same year, the delegated judge, Tourreau, brought the proceedings to an end and pronounced the following judgment: "No marriage was contracted by Mr. Edward Guillouzic with Emilia Henrica Bogues De Fursac." Against this judgment, the defender of the sacred bond appealed.

[*Latin ed. p. 728*]

728 BORDEAUX. A Synopsis of the Case. THE OPINION OF A THEOLOGIAN. The cause, which is now presented, is both very easy and, at the same time, sufficiently difficult, says the Theologian. It seems very easy, because it appears that there is nothing left to do except to confirm those things which have already been decreed in this cause with so much authority and with such certainty. And indeed, the Reverend Tourreau, the general vicar, the official, the judge delegated by the Archbishop of Bordeaux in the case in question, namely: the nullity of the marriage between Mr. Edward Guillouzic and Miss Mary Rogues de Fursac, declared on April 29, 1892, that "no marriage was contracted by Mr. Edward Guillouzic with Miss Emilia Henrietta Rogues de Fursac." Therefore, the cause seems very clear, very certain; no doubt arises, nor does the defender of the marriage raise any objection: therefore, it is easy to judge. And yet, this very thing makes it difficult; for there are certain things in this matter which are not entirely clear, so that the mind, while not daring to doubt, is nevertheless compelled to doubt. And first, with regard to the depositions of the parties and witnesses. Seven witnesses were present, a sufficient number and of close relationship. And although the matter is considered to be definitively settled by the doctors, nevertheless, there are certain things in the depositions of the parties and the seventh witness which require explanation. The plaintiff, Mr. Edward Guillouzic, seems to say that he was accepted by the father of the bride, who, in order to give his daughter to him in marriage,

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concealed her impotence. To the question: "Did the preparatory acts for the marriage contain anything that should be noted?" Mr. Guillouzic replies: "The father of Mary de Fursac, as is attested by his own testimony (this testimony is desired in the Acts, and yet it might be of some annoyance), indicated nothing of his daughter's defect, except a slight sign, although, having heard from me about these rumors, he openly declared his firm will to know the truth: he only said that his daughter was not enjoying [marital relations], which, indeed, cannot be an obstacle to marriage, since the absence of menstruation..."

[*Latin ed. p. 729*]

BURDIGALEN. 729, "nothing prevents her from obtaining the end of her marriage." — The wife, in response to that very question, answers: "We obtained the consent of my father with some difficulty, because the future husband did not enjoy a noble name and possessed no wealth." Therefore, she clearly testified to the contrary. Cl. The Defender of the Marriage, in the questions he put to the spouses, also asked this: "What do you intend to do in the future, should the marriage perhaps be declared null?" This question cannot reasonably have any other meaning than to ascertain whether the parties intended to contract a marriage. D. Guillouzic answers: "I want to marry"; Mary of Fursac, however, answers: "I have no intention of doing so now." It is true that, to the question: "Do you affirm that you have preserved your virginity and do you wish for medical evidence to be given of your virginity?" she answers affirmatively; but there is no contradiction here, and one does not exclude the other, in the hypothesis, for example, that the impotence was only temporary and could be removed by medical means, and therefore the marriage remained unconsummated. Now, regarding the testimony of the seventh witness. To the question: "Did you believe the spouses to be religious, so that they could not lie?" only three out of nine witnesses affirm this; the others answer that they did not recognize the spouses as being so; one denies that the man possessed this quality. Those who might have been able to give more definite testimony were not called. To the question: "Did you know if conjugal relations had taken place?" none of the witnesses gives a certain answer, except for one who states that he received from the father of the wife, who himself had received it from a doctor, after an examination of the daughter, that conjugal relations were impossible due to the physical constitution of that woman. Others say that they know nothing; and yet D. Guillouzic affirms that, before the marriage, he had heard rumors about the impotence of his bride. As for the impotence itself, as described in the proceedings, the following should be noted: it is not clear what kind of impotence is being

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discussed. The Defender of the Marriage speaks of impotence "per ar-..."

[*Latin ed. p. 730*]

730 BURDIGALA. Concerning sterility. And the following questions were noted: "Sterility due to obstruction." The physicians, however, insist on the absence of the uterus, ovaries, Fallopian tubes, and vagina; they speak only incidentally and in passing about the matter of obstruction. The physicians seem to have primarily in view sterility, that is, the inability to conceive. Not a word is mentioned about the operation that is sometimes performed to remove the obstruction. And rightly so, for it is not whether the sterile woman can become fit for a husband through an operation that is being investigated, but whether she can conceive. To the question: "Has conjugal intercourse been attempted, and repeatedly attempted?" the husband replies: "Indeed, conjugal intercourse has been attempted, and repeatedly attempted, without success" – and the wife replies: "Conjugal intercourse has been attempted and repeatedly attempted, up to this very time, that is, up to the end of the year 1891 – for nine years!" – To the question: "Have there been disagreements with your wife?" – "Never. There has never been a lack of harmony and friendship between us, and this continues even now," replies the husband. The wife affirms the same. This is remarkable: 1° that such harmony and friendship could have endured, when generally the opposite occurs in a similar case; and 2° that the frequency and such prolonged attempts at imperfect intercourse have not harmed the health of either the wife or the husband. To bring this discussion of the facts to a close, I will say one more thing: after having carefully read the documents transmitted to me, I have come to the conviction that this entire matter has been handled very hastily. What is surprising if, in such haste, some things have not been made clear? To shed some light on this matter, it is necessary to ask first: can we be certain of the absence of the uterus? And second: if the uterus is truly absent, does this necessarily entail sterility and, therefore, the nullity of the marriage? Regarding the first question, I read in "Physiological-Theological Discussions" by A. E., Doctor of Sacred Theology, Paris, 1887, page 109: "If you consult with physicians about this matter, you will know that the question of whether a woman truly lacks a uterus cannot be defined with certainty in practice."

[*Latin ed. p. 731*]

BORDEAUX. 731 Regarding the second point, I observe that impotence consists of two things: one, the inability to have intercourse, the other, the inability to conceive or generate. "This latter can occur without the former, as happens with the elderly, and with those who are naturally or accidentally sterile, who may be capable of a perfect union, although they do not produce offspring due to the inadequacy of the seed." (Schmalzgrueber,

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Ius Eccl. III, title XV, n. 2). The inability to have intercourse, "as the aforementioned theologian, A.E., states above, is defined as the incapacity of having conjugal intercourse, that is, whereby spouses become one flesh, or more explicitly: the inability for the woman to receive the male seed within the proper receptacle, namely, the vagina." (page 108). Therefore, for example, it is not denied that the use of marriage is permissible for elderly people who are impotent in terms of procreation; for the secondary end of marriage, namely, the mitigation of the ardor of concupiscence, is achieved. Among the physical impediments that dissolve marriage, the following are commonly listed in Canon Law: the absence of testicles or semen; if the semen is spilled outside the receptacle or cannot be received within the receptacle; shortness of the male member; and the narrowness of the woman, which cannot be remedied without the danger of death or grave infirmity, or without sin. However, the absence of the uterus is not found among these impediments according to the Canonists; and the authors who have written on this subject, with the exception of Father Debreyn, whom the aforementioned theologian, A.E., mentions, reject the opinion of Father Debreyn. From all of this, I am led to the conclusion: that there is no proof of the existence of impotence in Maria de Fursac, except perhaps in terms of narrowness, if it could not be remedied; but it is clear from the records of the case that no remedy has been applied, and no attempt has been made to remedy the narrowness.

OPINION OF A CANONIST. Since the purpose of marriage, as defined by nature, or rather by the Author of nature, is procreation, if this purpose cannot be achieved, the contract upon which the Sacrament is founded is nullified, and both natural law and ecclesiastical law, as well as civil law, confirm this; therefore, if there is impotence in only one of the spouses regarding procreation, the marital union is dissolved, and indeed, it is forbidden by the very law of nature.

[*Latin ed. p. 732*]

732 BURDIGALENSIS. To attempt a congress, when it is already sufficiently and undoubtedly established that there is an impediment to physical consummation, otherwise proven. Nevertheless, if there is any doubt, especially when the value of the sacrament is at stake, before the spouses are free to enter into other marriages, the judgment of an ecclesiastical judge must be awaited, to whose tribunal the judgment entirely belongs. This was demonstrated by the archiepiscopal court of Burdigala in the case of marriage between Edward Guillouzic, a soldier, and Mary Emilia Rogues de Fursac, who were lawfully joined before the Church on December 18, 1882: but on the first night of marriage, and on several subsequent occasions, the husband experienced that the wife, due to an insurmountable constriction or narrowness of the female organs, was incapable of conceiving. Under these circumstances, both spouses, with

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unanimous consent and free will, presented a petition to the Archbishop, requesting that their marriage be declared null and void due to the evident impotence. The archiepiscopal court, after due process, definitively and judgmentally declared that the marriage between Edward Guillouzic and Mary Emilia Rogues de Fursac was subject to nullity; therefore, the defender of the marriage bond referred the case to the Holy See. The matter being brought before this Holy See, the question is whether the judgment of the court of Burdigala should be confirmed or overturned. I believe it should be absolutely confirmed, since all kinds of evidence support it, namely, the confession of the spouses, the testimonies of witnesses, the religious oath, and especially the physical examination by experts.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE, *ex officio*. Edward Guillouzic and Mary de Fursac, who entered into marriage on December 18, 1882, driven by mutual love, declared it invalid in September of the year 1891, after having lived together in the same bed for almost nine years without complaint, due to the wife's impotence. The ecclesiastical court of Burdigala issued a judgment on April 29, 1892, in accordance with the wishes of Edward and Mary; and an eminent canonist considers it to be confirmed. However, a learned theological consultant disagrees with the best of legal opinion. Three.

[*Latin ed. p. 733*]

BURDIGALEN. For indeed, the 733 documents, namely the confession of the spouses, the testimony of the seventh hand, and the examination of Mary's body performed by experts, which are brought forth in the case of Aversa, are the most fragile. In truth, concerning the confession of the spouses, as is commonly known, it cannot be of any value whatsoever in the present case, since it is favorable to the confessing parties. For both spouses desire the dissolution of the marriage. Nor does the testimony of the seventh hand add anything of value to the confession of the spouses. For although it is defined by law that testimony of this kind should be given by relatives and neighbors, yet in this case, it is permitted for the parties to exclude from the list of seventh-hand witnesses as many as they deem fit. Furthermore, the defender of the matrimonial bond, whose duty it was to resist the machinations against marriage and to compel the witnesses to expose collusions and frauds, is so forgetful of the office entrusted to him that he himself proclaims the nullity of the marriage. Moreover, as the most astute theologian observes, neither do the witnesses, chosen by the parties at their pleasure, dare to swear to the words of Edward and Mary. Nor is the testimony of the experts of greater weight. For, in the first place, one of the two experts who examined Mary's body, namely the doctor Denucé, is legally suspect, because he had already examined Mary's body at the urging of one of the parties. Then, the examination carried out by the two doctors Denucé and Barillier is so abnormal that it does not resemble either

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a judicial or a serious examination. Not only did the experts, with unheard-of levity of mind, present the most blatant signs of impotence, and left many undefined matters which are absolutely necessary to determine the solution of the present controversy, as the excellent theologian observes; but neither the judge, nor the defender of the sacrament, nor the clerk to the house in which the woman was examined, approached the place; indeed, the clerk remains silent about the day, the hour, the place, and everything else concerning the examination. With all of this having been stated, it is necessary to explain the purpose.

[*Latin ed. p. 734*]

734 BORDEAUX. The question is whether the sentence of the Archdiocesan Court of Bordeaux of April 29, 1892, should be confirmed or annulled in this case. RESOLUTION. After deliberation, the Holy Council, on March 18, 1893, decided to respond: "Given the prior dispensation, the sentence should be confirmed, forbidding the woman from entering into other marriages." ACQUI. IN GALLUS. Dispensation for Marriage. January 23, 1893. Session 24, chapter 4, Concerning reforms in marriage. SUMMARY OF THE FACTS. Maria Lambert, a young woman from the Diocese of Acqui, happily married before the Church to Stephano Gondin from the Diocese of Avignon in 1881. In 1888, after approximately seven years of cohabitation, she was completely abandoned by her husband. The husband's father, seeking a civil divorce for his daughter, due to her supposed frailty and, especially, this most grievous fault, which, in this matter, so many otherwise devout individuals struggle with, did not sufficiently repent, and thus it happened that, with the father conducting all the legal proceedings, Maria was questioned only once, while the husband was not even brought before the court; the divorce decree was granted on November 13, 1889, based solely on certain external acts of cruelty by the husband, which she silently endured. It should be added that Maria Lambert subsequently entered into new, purely civil marriages with another man of more advanced age. Today, however, having embraced penance, and with all members of her household working to remove the spiritual damage and to erase the stain of infamy, she approached her parish priest and revealed her situation to him, laboring under some considerable distress.

[*Latin ed. p. 735*]

In GALLUS, in the year 735, Stephen Gondin, possessing an excessive size of the male organ, suffered from physical impotence, a condition that was antecedent, perpetual, and complete; for, over many years, after countless attempts and with much effort, they were unable to consummate their marriage. The Ordinary stated that, from previous inquiries and the testimonies of reputable individuals, there seemed to be sufficient evidence to demonstrate the existence of such impotence. Among other things, this

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included: first, the confession made by the woman herself to her relatives, at a time when she was not suspected; secondly, the genuine declarations of the husband, made in public places; indeed, the reproaches of certain prostitutes with whom he had attempted to have relations; and then, the testimony given by a reputable midwife from parisiensi. It was particularly significant that, due to a chance concurrence of circumstances, the woman had been examined by the midwife, Maria Lambert; and while the unfortunate woman at that time was considering a permanent separation, she nevertheless intended to fulfill her duties to her husband soon and with greater joy and confidence. The woman possessed a sincere and religious nature; she presented nothing that suggested a foolish illusion or the deceit of a lascivious woman, and she displayed signs of great truthfulness.

A SYNOPTIC DISCUSSION. THEOLOGIAN'S OPINION.

First of all, he said, it must be inquired whether the marriage in question can be dissolved through the legal process, namely, through a declaration of nullity, or rather, through the process of grace, that is, through a dispensation granted over it, considering it as not consummated, but simply valid; secondly, it must be determined whether there is sufficient proof of the lack of consummation, and whether the reasons required by law are provided, in order to petition for a dispensation. Regarding the first point, it is clear that here we are not dealing with absolute impotence, but with an impotence that is merely relative between Stepha-

[*Latin ed. p. 736*]

736. IN FRANCE, it is reported that Gondin and Mary Lambert were involved in a case where it was demonstrated that both suffered from a powerful form of impotence. Furthermore, these spouses appear to have suffered from a relative impotence in relation to each other, which would seem to render their marriage null from its very beginning. Indeed, it is considered that a natural disproportion of the organs makes consummation perpetually physically impossible, and thus, these spouses are said to have been found to be disproportionate, both from the fact that their conjugal act has been repeatedly and ineffectively attempted for seven years and more, and from the testimony of physicians, under oath, who declared that they had observed, in both spouses, abnormalities in the genital organs in a contrary manner, so that the male member was excessive, while the female organ was deficient. However, it is true that, when a case is being considered through the legal process, the proofs for the dissolution of marriage must be certain and undeniable; and I do not believe that such proofs are found in the present case. For it is not sufficient that the conjugal act has been imperfectly performed due to a factual disproportion, in order to legally conclude against the strength of the bond; for that which is not

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perfectly accomplished, as it ought to be, can arise from two sources: either from a defect of nature, or from the fault of those acting. If the former is the case, then the marriage is null; but not if the latter. However, the spouses in this case do not appear to have been at fault, as is evident when one compares what theologians and physicians teach about relative impotence with what is read in the records of the case. When it happens that a man cannot consummate the marriage due to the narrowness of his organs, "then," says St. Thomas (in IV, Dist. 34, q. 1, ad 5), "he might, with some instrument, break the hymen." And therefore, the Angelic Doctor expressly says, "that it cannot be a perpetual natural impediment in a man with respect to one person, and not with respect to another." Furthermore, it is a common teaching that, "if, in the judgment of physicians, the impediment to impotence is curable..."

[*Latin ed. p. 737*]

IN GALLUS, in the year 737, without any bodily danger, even if a woman refuses the incision or the necessary medicines by which she might be made fit for a man, the marriage is considered valid. Sánchez, *De Matrimonio*, I.V II, disputation XCIII, number 15. And such medicines are available, even in cases of great difficulty, as testified by the esteemed doctor Gerard van Swieten, who recounts in his *Commentaria in Boerhaave Aphorismos*, § 1290: "The vagina should then be dilated by art, as a most remarkable example is read of a woman whose vagina was so constricted throughout its entire length that she could scarcely accommodate a writing stylus of moderate size; therefore, a marriage already contracted three years prior, which could not be consummated, should be declared invalid according to the laws; and the term of the established deadline was already approaching. The excellent Benevoli applied the most softening applications for several days, then inserted a pessarium prepared from gentian root; gradually, he used thicker ones; finally, he applied a properly prepared sponge to the same." The woman returned to her homeland and, having sent letters to Benevoli, informed him that she had obtained what she had hoped for. Therefore, the same author concludes, "great prudence is necessary before it is determined that the consummation of marriage is impossible due to excessive constriction of the female genital organs." Indeed, nothing of this kind appears to have been medically attempted in this case. From these facts, it does not seem to me that the marriage in question is invalid due to a relative impediment of impotence. Therefore, the path of grace or dispensation must be taken, so that the present case may proceed safely. Indeed, in a summary and gracious judgment of dispensation, strict and rigid proofs, as are required in a judgment of nullity of marriage, are not required, but conjectural and supportive evidence regarding the lack of consummation is generally accepted. The Sacred Penitentiary Tribunal reports that such a practice has been followed, as stated by Paulus Leoni in *Practices of the

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Sacred Penitentiary*, Volume XXV, section CGC, 47.

[*Latin ed. p. 738*]

738. AQUÉN. In GALLUS, nihil. part. 2* et Corrado, Praxis dispens. Apost. I. 8, cap. 7; atque ipsa haec S. C. C. passim secuta est. Sic, in celebri causa dissolutionis matrimonii rati et non consummati inter Sigismundum Transilvaniae principem et Mariam Austriae, temporibus Clementis VIII, dispensationem elargitus est Pontifex, quin de principi ssa per matronas et obstetrices visitanda consilium actum sit, cum auditum fuisset eam haud facile hoc passuram. De matrimonio in themate duo inquiramus oportet, utrum nempe sufficienter constet, illud nun juam fuisse consummatum, et utrum sufficientes pra°sto sint rationes consulendi SSm° pro petita dispensatione. Quoad primum, affirmativam partem suadent probationes, quas arbitror non coniecturales tantum esse, sed vere graves atque ad moralem, prout in praesenti requiritur, certitudinem creandam idoneas. Sane in affirmandam inconsummationem concurrunt tum utriusque coniugum, tempore non suspecto, iurata declaratio, a septima manu plene confirmata, tum corporum, quatenus saltem datis circumstantiis fieri permissum est, inspectio. Et quidem uterque coniux coram iudice sub sacramento respondit nunquam se, licet multoties per septem annos repetitis conatibus, rem perficere potuisse. Maximi autem ponderis coniugum testimonium est, quod in ipsa rei novitate invenitur prolatum. Porro tale habetur in casu. Demum testes septimae manus aliique citati, fere omnes uno ore se coniuges, tempore minime suspecto, impotentiam affirmantes audivisse declarant. Restat ut de veracitate et de honestate eorumdem aliquid, addam, ait Consultor, prout ea de unanimi septimae manus iurata depositione luce clarius apparet, cum huiusmodi testium nullus sit, qui coniuges veraces se habere expressis verbis non declaraverit. Verum contra oratricem facere quod divortium apud iudicem civilem quaesierit, atque pronunciato divortio civile matrimonium inierit, minime diffiteor, quin.

738. AQUÉN. In Sabandja Su, nihil. part. 2* et Corrado, The Apostolic Practice concerning Dispensations, I. 8, chapter 7; and the Sacred Congregation of the Council has followed this in many instances. Thus, in the celebrated case concerning the dissolution of a marriage, both consummated and not consummated, between Prince Sigismund of Transylvania and Mary of the Ordinariate of Austria, during the time of Pope Clement VIII, the Pontiff granted a dispensation, so that the prince might be visited by matrons and midwives, after it was heard that she would not easily consent. Concerning marriage, two things must be inquired into: first, whether it can sufficiently be established that the marriage was never consummated; and second, whether sufficient reasons are present for consulting with the Most Holy Father regarding the requested dispensation. Regarding the first point, proofs suggest the affirmative, and I believe these proofs are not

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merely conjectural, but truly weighty and suitable to create certainty in the matter, as is required in the present case. Indeed, both the sworn declarations of the spouses, made at a time not to be suspected, fully confirmed by witnesses, and the examination of the bodies, insofar as this is permitted given the circumstances, contribute to affirming the lack of consummation. And indeed, both spouses, before the judge, under oath, declared that they had never been able to consummate the marriage, even after repeated attempts over seven years. The testimony of the spouses, which is found to have been given at the very beginning of the affair, is of the greatest weight. Furthermore, in this case, it is as follows. Finally, witnesses of the seventh class and others were summoned, and almost all of them, with one voice, declared that they had heard the spouses, at a time not to be suspected, affirming their impotence. It remains to say something about the veracity and honesty of these individuals, and I add, said the Consultor, as it clearly appears from the unanimous sworn deposition of the witnesses, that none of these witnesses declared that the spouses were not truthful in their own words. However, I do not deny that the advocate may have sought a divorce before a civil judge, and after obtaining a civil divorce, entered into marriage.

[*Latin ed. p. 739*]

IN GAUL, in the year 739, it must nevertheless be considered, or at least doubted, that the desire for another pretended marriage was the cause of the separation of the spouses. Furthermore, concerning the veracity, honesty, and Christian piety of the supplicant, Barbentanen, the parish priest testified, and this was confirmed not only by witnesses, but also by those summoned by order of the court. From what has been stated so far, it appears that there is sufficient evidence to declare that, throughout the entire period of their cohabitation, the spouses made repeated and fruitless attempts to consummate the marriage, and were never able to do so. Indeed, in such a sworn declaration, all the reasons for the decision must be stated, and this in such a way that, if an examination of the bodies were to be made, or at least the rules regarding such an examination established by law were to be observed, that evidence would be sufficiently adequate to obtain the requested dispensation. In the present case, however, such an examination is necessarily deficient, because the cause for the dissolution of the marriage was introduced at a time when the supplicant, through an illicit union with another, merely civil, husband, had already lost the sign of virginity. Nevertheless, it was necessary that the bodies be examined by at least two physicians, because the reason for the lack of consummation was not, indeed, a common virginal closure, but a true and natural disproportion of the organs, which could not be remedied by subsequent intercourse with others. Therefore, the required examination of both spouses, and even of the alleged civil husband, was carried out by physicians of the utmost in-

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tegrity; and it was found to be true, as had been reported and proven. With this examination of the bodies by the physicians, another matter was fully confirmed, which in the year 1886, in Paris, was fortuitously discovered by a midwife. Therefore, I believe that there is more than enough evidence to establish what is required in the judgment of dispensations, namely, the lack of consummation. As for the other matter, namely, the just causes for granting a dispensation, it is unnecessary to demonstrate that they are abundant here, rather than lacking. OPINION OF THE CANONIST. The work does not...

[*Latin ed. p. 740*]

740. IN GALLUS, it can be maintained that the Supreme Pontiff possesses the power to dispense in only valid marriages, for this is denied by no one; just as, on the other hand, no one doubts that the lack of consummation must be demonstrated by entirely decisive arguments: for when a marriage is begun, consummation should be presumed, and no power is granted to the Pope to dispense in the marriage of the faithful who have consummated it.

This presumption is stronger when it is established that the spouses have lived together after the marriage, as in this case. However, this is a matter in which much must be left to the judgment and prudence of the judge. Cosci De, *Separationes*, lib. 1, cap. XIII, n. 25, citing the authority of Reiffenstuel, *Decretum* 4, title 15, d. 13, and others, states this doctrine: "When, through examination or other proof, there are no certain and simply evident physical signs, the possibility [of consummation] must be excluded; but if there are probabilities and morally almost certain circumstances, then, unless it appears otherwise to the judge, the three-year period may be omitted, and only the oath taken, and then a judgment may be pronounced concerning the lack of perfect union between the spouses, and concerning the performance of the marital duty by the spouses, regarding the nullity of the marriage." If so, then concerning the lack of consummation, which, as is evident, is included in that.

The contention of Mary is entirely based on the disproportion between the vain attempts at union, repeated a hundred times, over more than seven years; and although it must be admitted that experts in this matter are hardly willing to admit a true impossibility of union, given the full physical capacity on the part of the man, nevertheless they do not entirely exclude it, and they know that sometimes the difficulty of union can exist for many years.

Here, Lazzaretti, *Medicina Legale*, lib. II, § 22, recounts a case in which the spouses were unable to consummate, and the medical opinion declared the union between them to be impossible; but, while they persevered in the marriage, the wife became pregnant after eleven years, and during her pregnancy, the vagina naturally dilated, and she gave birth successfully.

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Similarly, Casper, *Manuale Pratico*, Demaria, Vol. II, p. 56. Therefore, the experts do not insist on the possibility [of consummation] in the least.

[*Latin ed. p. 741*]

IN GALLUS, 741, sufficiently and abundantly demonstrate that presumption, in each case, is adverse; therefore, the question to be resolved in the present matter is whether the testimonies presented in the cause are such that their force and weight destroy all contrary presumption, and, on the contrary, prove the contrary.

In the legal examination, Maria Lambert, first of all, declares her adherence to the Catholic Church, which is otherwise confirmed by all the witnesses from both sides, together with the parish priest. Then, concerning the marriage, she affirms under MSS under oath that it began with mutual love, but that consummation was entirely impossible, despite the good will and repeated efforts on both sides.

Furthermore, the midwife states that Maria says she faithfully observed her, without any beneficial effect; indeed, after repeated attempts, her husband exclaimed: "It seems to me that things are getting worse," and abandoned her again in September 1888.

Regarding the civil divorce, the woman asserts that she was pressured by her father, and that she did nothing in that matter that would have been more probable if she had been left to her own devices. The statements of Maria are corroborated, to some extent, by the other spouse, Condin. Under oath, he affirms that the vagina was never penetrated, nor was semen ejaculated within her. Disagreements between them arose solely from this point, after which, being excessively affected by this, he went to Massiliam, stating that love persisted on both sides. He did nothing concerning the civil divorce. Even after the divorce, Maria was prepared to restore the household. It appears that she did not, by herself, seek the divorce, which, according to her mother, was brought about by her father. All the witnesses, whether lay or those acting in an official capacity, who were called in the cause, confess Maria's honesty.

However, the confession of the spouses, even a judicial confession, does not immediately have probative force; indeed, it alone and by itself lacks all force, until it is corroborated by certain other evidence and by other kinds of proof. It is nothing more than a "narration" of the facts, which, with the arguments that the matter admits, must then be proven, which, in this case, are nothing more than the testimonies of the honesty and sincerity of the spouses, declarations of non-consummation.

[*Latin ed. p. 742*]

742 AQUÉN. IN GALLUS, "at a time when no suspicion existed," and the investigation of the fact and the causes of the non-consummation "must be carried out by experts." Regarding the honesty and sincerity of Mary, a

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document of great importance is provided by the "sworn testimony of Mr. Gonet, the parish priest of Barbentane, who stated: Mary always deserved great esteem, both as a young woman and as a wife. When questioned by the Defender of the Bond, 'Whether a secret love for Mr. Marteau was not the source and origin of the disagreements between the spouses?' he absolutely denied it." He speaks of the civil divorce and the second union; he affirms that Mary, while seeking a dispensation, acted not out of vanity or a simple desire to remove from herself the stigma of an illicit union, but out of conscience and for the sake of true religion; and he declares his firm conviction that Mary always gave all possible fidelity. Finally, he himself pleads for the dispensation, saying that no scandal is to be feared among the faithful, but rather, greater good will come to the families of Gondin, Lambert, and Marteau. No less clearly emerge the declarations of the spouses regarding the non-consummation from the witnesses presented by the party of Gondin. Considering all of these things, it is scarcely possible to doubt the honesty and sincerity of Mary; and also, to a lesser degree, of Stephen Gondin, so that if this point alone were resolved, the matter would truly be perfect. However, the testimonies of midwives are also required. In this regard, the midwife Duval, when questioned about the physical condition of Mary, testifies that her height is abnormal and that intercourse between the spouses was impossible due to the disproportion. Nevertheless, the witness affirms that this condition could be overcome by a man other than her husband, whose member, as she herself ascertained from an examination of Mary, is completely abnormal. The Consultant, proceeding to the conclusion, says: in these most difficult matters, the testimonies must be carefully examined and weighed. Indeed, those that demonstrate the sincerity and religion of the parties, and the expert testimonies regarding the physical facts, which it is rarely or never permissible to separate in this matter.

[*Latin ed. p. 743*]

IN GALLUS, 743. Truly, the sincerity and piety of Mary are beyond doubt. From the multitude of witnesses presented, not one has failed to attest to her virtue. Regarding Stephen, the number of testimonies is not so numerous, but his own sincerity is confirmed by Mary, for she testifies entirely in the same manner. A more serious defect lies in the lack of expertise; I have already noted the deficiency in form, and the absence of questioning. Indeed, if grave causes were determined solely by summarized testimonies from physicians – commonly called "certificates" – immense harm and abuse would be inflicted. Furthermore, it is difficult to reconcile what Mr. Cossin states regarding defloration and the shedding of blood, with what is read in the deposition of Madame Duval concerning the almost total disappearance of the hymen. All of this does not entirely exclude the possibility of virginity, although it does not hesitate to assert

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a strong probability of non-consummation. And since, in these miseries, which are otherwise irreparable, I see the Sacred Congregation inclined towards the more merciful side, I believe that in this case, recourse can be made to the Most Holy [Father] for a dispensation, for which there are very serious reasons, given the most miserable state in which the parties are currently situated.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE OFFICE. In the year 1881, Stephen Gondin, being twenty years of age, and Mary Lambert, having already passed her twentieth year, entered into a matrimonial bond, moved by mutual love. The newly married couple maintained the customs of conjugal life for SEVEN YEARS. But in the year 1888, Stephen bid farewell to his wife; Mary then subsequently dissolved the marital bond before the civil authorities, and on February 7, 1892, she was married before the same authorities to a certain Stephen Marteau. Following Mary's example, Stephen Gondin also entered into a civil union with a woman. With all of this established, Mary Lambert and Stephen Gondin now seek to dissolve the indissoluble bond contracted in the year 1881, alleging the non-consummation of the marriage due to relative impotence. Learned consultants, theologians, and canonists, regarding Mary,

[*Latin ed. p. 744*]

744. REGARDING. In GALLUS, Lambert and Stephen Gondin are being examined, but not without some suspicion of error, which is very great for me. For it is established, as in the present case, that both are suitable for the task; however, any relative incompetence must be ascertained through the most careful examination of the bodies. But only one expert, namely the doctor Cossin, examined the body of Mary; while the body of Stephen Gondin was examined by two doctors, that is, Latii and Cossin; but not SEPARATELY, but together: nor were experts called to give oral testimony before the judge, but only a written report of the examination was presented, compiled in collusion; which circumstance, as a most astute canonist observes, is exposed to the dangers of fraud and collusion. Furthermore, the doctors Latii and Cossin, while asserting that Mary was defiled by her second husband, are completely at odds with the midwife Duval, who examined Mary's body five years after the marriage, and under oath, testifies that the hymen had been violently violated, but not completely destroyed. Moreover, the eagerness of the parties, not only in the doctors Latii and Cossin, but also in the midwife Duval, is evident: for she declares Mary Lambert's womb to be sometimes more, sometimes less constricted, as it seems to her to be advantageous to the actress. Nor am I moved by the witnesses of the seventh order, who, in order to persuade us that we can safely swear in the words of Mary Lambert, extol her religion to the heavens. With these and other things noted, the purpose is to resolve the doubt as to whether it is necessary to consult with the Most Holy [See] regarding

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a marriage that is valid but not consummated in this case. RESOLUTION. The Sacred Congregation, after discussion on January 28, 1893, decided to respond: Affirmative.

[*Latin ed. p. 745*]

748 MILAN, AND OTHER PLACES. Granted on January 28, 1893. By summary indulgences. SUMMARY OF FACTS. Pope Gregory XIII, by apostolic letters in the form of a Brief, dated October 20, 1579, granted and conceded perpetually to the prayers of the Archbishop of Milan, St. Charles, and his suffragan bishops: "that whoever, being canons of the metropolitan cathedral, or holding a dignity therein, or others bound to the choir office, who, at the order of the Archbishop or Bishop, shall attend or minister or serve in the city, even outside the metropolitan church or cathedral, in churches or cemeteries being consecrated or reconciled, or administering the sacred Orders or the sacrament of Confirmation, or the Most Holy Eucharist to the faithful, or performing other pontifical functions; also, those who, at the order of the Archbishop or Bishop, shall have ministered or performed service in the administration of the sacraments of Penance and the Most Holy Eucharist in their metropolitan, cathedral, or collegiate church, while engaged in such occupation in that church, all of these and each of them shall be considered as present in the choir, so that they may participate equally in the distribution of whatever is given, as those who are present in the choir during the solemnities of Mass and the canonical hours: and that the aforementioned Archbishop and each Bishop of that province may, whenever they deem it fitting, permit and order that some of the canons and those holding dignities, and others bound to the choir office, may, for their own devotion, or by reason of a duty undertaken or imposed upon them, or in the name of charity, celebrate Mass in their respective churches, in which they are bound to the choir, during the time that divine services are performed, on both feast days and weekdays, and nevertheless, with regard to receiving distributions, they shall be considered as present in the choir, always remembering this condition."

[*Latin ed. p. 746*]

746 MEDIOLAN. AND OTHER: To the Archbishops and Bishops, so that not more than a certain number may be absent from the duties of the choir at the same time, under this title. However, as the Bishop of Mantua recently wrote to the Sacred Congregation, if such an indulgence were to be granted "only to the canons of a single diocese, and could be extended even to the entire province, it would cause great detriment to the choir, especially in these times, when the number of canons and prebendaries is greatly diminished." Therefore, the Archbishops and Bishops of the ecclesiastical province of Mediolanensis are asked: "Can this Brief be maintained, despite the repeated responses given by the Sacred Congregation,

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that canons, except for the parish priest and penitentiary, if they are actually present, hearing confessions during the times of divine office, cannot be considered absent from the choir, nor can they participate in the distribution of [Holy] Communion?"

Subsequently, the same Bishop, being asked to provide more detailed reasons for doubting the aforementioned indulgence, added: "This indulgence is considered to have been granted primarily for this reason, because perhaps at that time, parochial rights applied to all canons simultaneously. Now, it is only valid in the chapter of Brixia; but if it were known in the other dioceses of the province, some colleges of canons might wish to use it: which, of course, would be tolerable and beneficial, even for those Bishops who are forced to entrust so many duties to the canons. But, besides the fact that, alas, the parish priest and penitentiary often do enough, given that the number of canons is greatly diminished, if all the prebendaries were to claim this indulgence, the choir could scarcely be maintained in many cathedrals."

Synopsis: Furthermore, it should also be said that the indulgence, concerning which we have spoken, was perhaps granted because, at that time, parochial rights perhaps applied to all canons simultaneously; and consequently, with the cessation of the cause, the effect of the indulgence also ceases, as is stated in Chapter 00 on Appeals. And from this alone, it seems to be explained.

[*Latin ed. p. 747*]

MILAN, AND OTHER [PLACES], 747: The longest period of non-use, or rather, contrary use. Furthermore, this very non-use, or contrary use, might perhaps be alleged here, not only to demonstrate a tacit renunciation, but also to demonstrate a claim of prescription, as is taught in chapter 6 concerning privileges: "If you have paid tithes to the canons of Plautio for thirty years for the land you possess in that parish, you must continue to pay them in full from now on. Although the brothers of the Cistercian Order have been granted, by the benefit of the privileges of the Roman Church, an indulgence that they are not obliged to pay any tithes from their labors; nevertheless, you have wished to withdraw the privilege granted to you for so long a time, since everyone is free to renounce their own rights, and in this way you can defend yourselves in this matter." It must be considered, on the contrary, that the privilege in this case is merely facultative, and that its use depends entirely on the prudent judgment of the Bishops. For it is not permitted for anyone to be absent from the choir, unless they expend their efforts, at the order or with the permission of the Bishop, in hearing confessions, etc. Therefore, the reasons for doubting the privilege itself do not seem to be relevant to the matter. In general. In particular, the non-use of the privilege is wrongly objected, since it is neither entirely true, for it is in force in the diocese of Brixia, nor can it cause any difficulty.

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Let us hear Reiffenstuel in the cited title, On Privileges, nos. 209 and 210: "III. Affirmative privileges, which are merely graces, and which yield to no one's detriment, v.g., celebrating before dawn, absolving, dispensing, and the like, are never lost through non-use... Moreover, the reason is: because, in the first place, such privileges are not lost through prescription, since there is no one who can prescribe against such privileges that are not burdensome. Nor are they lost through tacit renunciation, because everyone has the free faculty of using or not using the privilege..." With these considerations in mind, the question was raised as to how the prayers should be dismissed. RESOLUTION. The Sacred Congregation, having considered the matter on January 28, 1893, decided to respond: The indulgence should be maintained and upheld.

[*Latin ed. p. 748*]

FROM THE HOLY CONGREGATION OF INDULGENCES, ORDER OF MINOR FRATERS CAPUCHIN. Concerning the meaning of the Decree issued by the Holy Congregation of Indulgences on January 31, 1893. Brother Eugenius of Sinigaglia, of the Order of Minor Friars Capuchin, humbly proposes the following questions to this Holy Congregation for clarification:

I. Does the Decree issued by this Holy Congregation on January 31 of the current year, 1893, have retroactive effect, with regard to question number 9, in which it was asked: "Can those who have been admitted among the tertiaries of one Order also be admitted among the tertiaries of another Order, such as the Order of Saint Dominic, or of the Most Holy Trinity, etc., so that a Christian faithful can simultaneously be a tertiary of the Franciscan Order, of Saint Dominic, of the Most Holy Trinity, of the Carmelite Order, and so forth?" To which the answer was "No"?

II. Do the Christian faithful who, before the aforementioned Decree, were found to belong to several Tertiary Orders now enjoy the freedom to choose one Order rather than another, from among those to which they had already pledged themselves?

And the Holy Congregation considered that an answer should be given to the proposed questions:

To I: Affirmative.

To II: Affirmative, according to the devotion of any Christian faithful.

Given in Rome, from the Secretariat of the same Holy Congregation, on June 21, 1893.

[Signature] FR. IGNATIUS CARD. PERSICO, PREFECT.

[Signature] L. S. f ALEXANDER, Archbishop of Nicopolis, SECRETARY.

[*Latin ed. p. 749*]

749. FROM THE SACRED CONGREGATION OF THE ROMAN AND

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UNIVERSAL INQUISITION, QUESTIONS regarding the denunciation of the leaders of the Masonic sect. Most Blessed Father, Francis, Bishop of Bayonne, prostrates himself before Your Holiness and implores: 1°. Whether the hidden leaders and heads of the Masonic sect ought to be denounced according to the Constitution of the Apostolic See, when they are publicly known as free masons, but are not publicly known as leaders or heads of this Masonic sect? 2°. Whether the obligation to denounce ceases in those regions in which free masons, and therefore also their leaders, are tolerated by the civil government, and cannot be punished or in any way restrained by ecclesiastical authority? On the fourth day of April, in the year 1893. In the general Congregation of the Sacred Roman and Universal Inquisition, having summoned the aforementioned questions for examination, the Most Eminent and Reverend Lords Cardinals, General Inquisitors for matters of faith and morals, decreed the following answers: To 1. Affirmative. To 2. Negative. P. R. D. MANCINI, Notary. PETRUS PALOMBELLI, Subsecretary. QUESTIONS regarding the cult of the Divine Face of the Redeemer. Question I. Whether it is fitting to approve, or at least to permit, a special cult dedicated to the adorable Face of the Divine Redeemer, and different from the customary devotion hitherto paid to the image of the Holy Face, which is called the "Sainte Face" by priests, and which has been greatly promoted in Tours by the Annals of the Archisodality? Question II. Whether, in order to promote and establish the cult of which mention is made in the previous question, the Church or a public oratory...

[*Latin ed. p. 750*]

780 Whether it is fitting to dedicate societies, and even some Religious Congregation or Institute, under the title of the Holy Face? The Most Eminent and Most Reverend Lords Cardinals, General Inquisitors in matters of Faith and morals, having maturely considered the matter, have decreed: To Question I: It is not expedient. To Question II: Negatively; and with this understanding: The Holy See, by adopting the title of the Holy Face, then in a Brief of December 16, 1884, granting special Indulgences to the society established under that title in Tours, and then in a Brief of March 30, 1885, elevating the Society to the rank of Archisociety, did not intend to favor, and much less to directly or indirectly approve, the special and distinct cult, the adorable Face of the Redeemer, being offered in that manner, as is specifically proposed and promoted by those called "Priests of the Holy Face." The Holy See intended only to favor the veneration, already from ancient times, of the image of the Divine Face of the Redeemer, or of copies of that same image; so that, through the veneration and contemplation of the aforementioned image, the memory of the sufferings of Christ may increase more and more in the minds of the faithful, and that their hearts may be filled with sorrow for their sins, and with a burning desire to repair the injuries done to the Divine Majesty. Thursday, May 4, 1892. On the

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following Friday, after a report on these matters was made to His Holiness Pope Leo XIII, the same Holiness deigned to approve the resolution of the Eminent Fathers. At the same time, the Eminent Fathers recall the understanding of the Holy Congregation, previously expressed by order of the Most Holy Pope Pius IX on Thursday, January 13, 1873, namely: that writers, diligently working to publish such novelties, even under the pretext of piety, should be warned, especially through periodicals, not to spread unusual devotions, so that they may more seriously consider the danger of misleading the faithful, and of giving them the opportunity to be drawn into error, even against the Faith, and thus to attack the Religion; and therefore, the aforementioned promoters of novelties should abandon their intentions.

[*Latin ed. p. 751*]

751 SUMMARY OF THE ACTS CONTAINED IN THIS VOLUME XXV: LETTERS AND DECREES OF THE HOLY FATHER. The Letter of His Holiness Pope Leo XIII to the Archbishops and Bishops of Spain, Italy, and both Americas, concerning Christopher Columbus. The Motu Proprio of His Holiness Pope Leo XIII concerning the establishment of theological studies in the Roman Seminary. (55 Letters of His Holiness Pope Leo XIII to the Bishop of Grenoble, in which he expresses his joy regarding the meetings of the Catholic youth, held under the presidency of the aforementioned Ordinary.) 66 The Encyclical Letter of His Holiness Pope Leo XIII on the Rosary of Mary. 139 Letters of His Holiness Pope Leo XIII to the Superior General of the Society of Jesus. 193 Letters of His Holiness Pope Leo XIII to the Bishop of Orleans, in which he encourages him to continue the work he has begun, despite the obstacles encountered. 267 Letters of His Holiness Pope Leo XIII to the Bishop of Padua. 273 Letters of His Holiness Pope Leo XIII to the Bishops of Italy concerning the Masonic sect. 274 Letter of His Holiness Pope Leo XIII to the Vicarious Capitular of Bologna. 321 Letters of His Holiness Pope Leo XIII to Father Picard, Superior General of the Augustinian Order of the Assumption, concerning the pilgrimage to Jerusalem. 385 Letters of His Holiness Pope Leo XIII to Monsignor Aloisius of Canosa, Bishop of Verona, and to other Bishops of the Venetian province, concerning a new law to be established, which requires the civil marriage ceremony to be performed before the marriage. 459 Letters of His Holiness Pope Leo XIII to Monsignor Gibbons, Archbishop of Baltimore, in which he confirms the already published decree concerning parish schools. 713 The Letter of His Holiness Pope Leo XIII concerning the establishment of seminaries for clerics in the Orient. 716 FROM THE SECRETARY'S OFFICE: Letters in the form of a brief; concerning the establishment of the unique and universal Association of the Holy Family. 8 Statutes of the aforemen-

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tioned association. 10

[*Latin ed. p. 752*]

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[*Latin ed. p. 753*]

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[*Latin ed. p. 757*]

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100 Romana: Concerning the liquidation of canons, laudums, and expenses; a resolution is provided for the doubts raised regarding the canon and the laudum to be paid.

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361 Litterae circulares ad Ordinarios Italiae: Circular letters to the Ordinaries of Italy; the norms regarding the goods of sodalities should be kept in mind.

370 Terrarien: Concerning funerals; the question concerns the parochial rights between the parish priest and the minor religious, among whom the funeral rites for the deceased were performed.

495 Colonien, or Limburg: A doubt arises between the Ordinaries of Colonien and Limburg: to which one does the duty of attending to the unfortunate priest belong?

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[*Latin ed. p. 759*]

SUMMA ACTORUM EX AEDIBUS VATICANIS: Regulae piae Familiae EX Decretum libri Decretum tur Associationis sacrae, page 567. S. CONG. INDICIS: "Quae quae varii prohibentur" § 436, "Liber prohibe" § 512. EX S. C. DE PROPAGANDA FIDE: De mulieribus Tertii ordinis earumque privilegiis § 119; Missionarii latini quoad confessionem a monialium orientalium § 126; De pueris admittendis in scholis Monialium § 127; De confes-

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[*Latin ed. p. 760*]

760 A summary of the acts of Capua concerning the recitation of the small Office of the Blessed Virgin Mary, and abstinence from meat, prescribed to the members of the confraternity of the same Blessed Virgin Mary of Mount Carmel, who wish to enjoy the privilege called the "Sabbath."

430 An indulgence of fifty days is granted to those who recite the prayers: "Deign to reward..." etc.

431 Decrees of the City and the World, concerning the pious exercise of fifteen Sabbaths in honor of the Blessed Virgin Mary under the title of the Most Holy Rosary.

504 A decree of the Third Secular Order of Saint Francis of Assisi.

506 Lauden: A decree concerning doubts regarding the law concerning the distance to be observed in establishing confraternities.

509 Mechlinien: A doubt concerning the altar for gaining an indulgence.

572 Tolosan: Concerning the indulgence to be gained through the sacrifice of the Mass.

572 Valentinen: A doubt concerning the blessing at the hour of death.

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704 A doubt concerning the blessing at the hour of death.

705 Of the Order of the Minor Capuchin Friars: Concerning the meaning of a decree issued by the Holy Congregation for Indulgences on January 31, 1893.

748 From the Holy Congregation for Regular Discipline: Prescriptions concerning young men from religious families who are subject to military service.

635 From the Holy Penitentiary Apostolic: A doubt concerning alms offered for Masses.

445 A doubt concerning the absolution of reserved sins.

571 From the Holy Congregation for Extraordinary Affairs: Decrees for resolving difficulties concerning the validity of marriages on the island of Malta, where the Tridentine form was not observed.

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[*Latin ed. p. 761*]

761 GENERAL INDEX OF CONCLUSIONS NOTED IN MOST OF THE ACTS CONTAINED IN THIS VOLUME, THE SUBJECT MATTER OF WHICH IS FULLY EXPLAINED OR STATED IN THE INDIVIDUAL ACTS. These conclusions are contained under the following words: Canon and laudable custom. Canon concerning the choir. Chapter concerning parochial tithes. Agreement. Choral distribution. Bishop concerning the removal of pastors. Marriage. Parochial vicar concerning funerals. Bishop concerning informed conscience. Priest concerning cardinalation. Right of patronage concerning the present institution. Foreign vicar. Canon and laudable custom. In the manorial leases of ecclesiastical property, the principal of the canon, which is due to the direct lord, must be paid by the lessee without any reduction. page 232. Regarding this matter, taxes, movable property, and any other burdens or tributes by which the principal of the canon is charged in the ecclesiastical lease according to civil law, are to be paid not by the direct lord, but by the lessee. Ibid. Nor should one adhere to the provision of civil law in this matter, since it was enacted in contempt of ecclesiastical property. Ibid. The laudable custom, so called, is due to the direct lord whenever the beneficial ownership of the leasehold is transferred to others. Ibid. And this is like a premium for the consent that the direct lord grants to the transfer of the beneficial ownership. Ibid. Hence, in the obligatory alienation of the leasehold, no laudable custom is due to the direct lord, because the transfer of ownership takes place without his consent, indeed, even against his will. Ibid. The direct lord is obliged to contribute in proportion to the expenses that the lessee incurs for the common good. Ibid. Canon concerning the choir. It is not permitted for prebendaries, by virtue of any custom, even one of long standing, to be absent from their own churches for more than three

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months. page 541.

[*Latin ed. p. 762*]

762 INDEX G. Generalis disciplina Ecclesiae est ut Capitula Tridentinum formam recipiant, quod est dicere, ut tertiam partem fructuum ad distributiones constituant; ita tamen ut solum illi qui habent jus, proprias distributiones facere possint, ibidem. Consuetudo absentiandi a choro plus quam tres menses, cum inter distributiones chorales numeretur, nullam firmitatem habet, tum quia Tridentino contraria est, contra quod, sententia plurimorum, nulla praescriptio datur; tum quia ex iugis iurisprudentia Ecclesiae improbatur, ibidem. Capitulum, quod curae actuali valedictum habuit, sed curam habitualem retinuit, sibi ius reservasse indicatur administrandi baptismum independenter a canonico parocho et asservandi libros baptizatorum, pagina 225. Hoc ius Capitulum sibi acquirere potest per diutinam observantiam, tum in linea interpretativa, tum in linea praesumptiva, tum denique in linea praescriptiva, ibidem. Observantia optima est fundamentum legis, et maiorem sibi auctoritatem vindicat, si legi fundamenti proxima vel contemporanea sit, ibidem. Iure, tum caesaerio, tum canonico, in quacumque causa, vel quacumque persona, ius privatum vel publicum, quadraginta annorum iugis silentio extinguitur, ibidem. Capitulum, quod curae tantum actuali et functionibus mere parochialibus nuntium misit, ius habet, praeter capitulares, alias functiones celebrandi, quae non sint mere parochiales, sive per se, sive per alios, ibidem. Beneficiarii ad coadiuvandum canonicum parochum adstricti, a parochi dependentia a capitulo, in iis quae curam animarum respiciunt, turbari non possunt, pagina 226. Iidem Beneficiarii tenentur coadiuvare canonicum parochum in praedicatione Evangelii et in catechesis instructionibus, quoties parochus sit impeditus, ibidem. Conventio. Quaelibet conventio suos tenet auctores, ideoque contrahens obligationem, eidem obligationi satisfacere debet, pagina 369. Actore assertionem non probante, reus absolvitur, ibidem. Res inter alios acta, nec prodest, nec nocet tertiis, qui non interfuerunt, ibidem. Nemo ex culpa sua commodum referre debet, ibidem. Iura non dormientibus, sed vigilantibus assistunt, ibidem. Cum principalis causa non consistat, nec ea quidem quae sequuntur, locum habent, ibidem.

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Distribution of ecclesiastical duties. It is more in accordance with the law that one-third of the fruits [of benefices] be converted into daily distributions, as decreed by the Council of Trent, page 491. With this arrangement, the Council of Trent sought to encourage canons, and other beneficiaries, to perform their choral duties with due diligence, ibid.

The Bishop concerning the removal of parish priests. Bishops, after examining the necessary reasons, can lawfully transfer parish priests from

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one place to another, who may be able to serve more usefully elsewhere, if they are less useful in one place, page 420. If parish priests are unable to benefit the people, due to the people's malice and stubbornness, it is fitting that they be excused from such duties, so that, with a tranquil mind and without anxieties, they may devote themselves wholeheartedly to the care of the flock, ibid. Removals of parish priests, carried out by the Ordinary for the sake of unjust hatred of the people, generally take the form of a transfer, not a deprivation, ibid.

The Bishop concerning the process based on informed conscience. Bishops cannot reject those presented for benefices by employing a procedure that is said to be based on informed conscience, in order to overcome their objections, page 182. However, in these cases, Bishops have the faculty of proceeding economically, according to the form of the most recent Instruction of the Sacred Congregation of Bishops and Regular Canons, of the year 1880; by which an appeal is granted from a broad judgment to the Metropolitan, ibid. Clerics presented for benefices cannot be rejected if their unworthiness is demonstrated by a judgment based on informed conscience; because this would take on the nature of a permanent suspension; which superiors are not lawfully able to impose, unless they precede it with the solemnities of the law, even through a procedure conducted economically, ibid.

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[*Latin ed. p. 764*]

764 INDEX G: De libertate in conferendis beneficiis; qua libertate nemo potest deprivari per infidelis aut Iudaei; qui huius privilegiorum incapaces sunt. Ibid. Matrimonium. Inter alias condiciones, quibus metus dicitur, ex iure, validum esse ad cadendum in constantem virum, requiritur, ut timens non possit facile occurrere malis, quae sibi imminere timet. Pag. 213. Nam si metus excussi potuit, et excussus non fuit, quis putet malum, quod facile potuit vitare, ibid. Matrimonium minime irritatur qualicumque perverso fine; dummodo perversus hic finis non adversetur bonis sacramenti, vel fidei, vel prolis: nam qui matrimonium contrahit, nisi finem debitum expresse excludat, illum virtute et implicite intendit, ibid. Metus amittendi lucrum aut haereditatem aut beneficium, quod quis sperat ab aliquo, ad

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quod tamen non habet ius ad rem, non cadit in constantem virum. Ibid. Quando agitur de metu incusso puellis ad extorquendum consensum in matrimonium, plura sunt relinquenda prudenti arbitrio iudicis; ut in singulis casibus iudicium efformet, utrum metus gravis dici queat, attenta indole et adiunctis patientis et inferentis metum. Pag. 298. Ad infirmandum matrimonium sufficit metus relative gravis; cuius gravitas non solum a criteriis absolutis, sed pluries a criteriis relativis pensitanda venit. Ibid. Ex iure exigitur, ut quilibet matrimonium contrahens plena gaudeat securitate, ne pertimorem dicat sibi placere quod odit. Ibid. In casu particulari metus per se levis fieri potest relative gravis, si producat gravem mentis trepidationem, quae valde minuit voluntarium, ibid. Ex iure fides haberi potest utrisque coniugibus consummationem matrimonii excludentibus; aente textu « si quod numquam se invicem cognoverint ambo fateantur, cum septima manu propinquorum... uterque iureiurando dicat quod nunquam per carnis copulam una caro effecti fuissent... valeant ad secundas nuptias convolare ». Pag. 566. Quamobrem condormitio coniugum in eodem lecto non efficit, ut matrimonium amittat qualitatem rati, quando vere consummatum non fuit; et non consummatio probetur per iuratam confessionem coniugum, per testimonium cum iuramento septimae manus, per obstetricum iudicium famamque publicam, ibid. Moralis certitudo de non consummatione matrimonii, gignitur per aspectum obstetricum; quando reperiantur signa virginitatis realis et naturalis; quibus stantibus, argui...

[*Latin ed. p. 765*]

INDEX: It is possible to ascertain whether a woman has been violated, page 567. Absolute and physical certainty is not required by the sacred canons; because it is often impossible to obtain; and since the matter concerns a hidden fact, from which witnesses are absent, and testimonies may be certain, not by physical certainty, but only by moral certainty, to which the mind of the judge can adhere; just as are conjectures, indications, and other arguments to be considered jointly, ibid. Seriously imposed conditions against the essence of marriage render the matrimonial contract ineffective, page 622. Therefore, it is not invalid if it is said, contrary to you, if you avoid procreation, or until you find another who is more virtuous or of better standing, or if you surrender yourself to adultery for gain, ibid. For these conditions destroy offspring, mutual fidelity, and the union of individuals; for in these three consist the substantial goods of marriage, ibid. But the imposition of these conditions must be formally proven before the celebration of the marriage, in order to produce an effect against the validity of the marriage, for which there is a special favor in the Church, page 523. The parish priest concerning funerals. In matters of funerals, the synodal laws and local customs are to be held in high regard, which have the force of law, provided they have been duly introduced, prescribed, and approved, p. 503. The bodies of the deceased must be buried by the parish

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priest, from whom they received the sacraments; and the parish priest has a legally founded intention regarding the burial, ibid. The territorial jurisdiction of the parish priests is revived when the bodies leave the churches, for the easy return of each thing to its principles, ibid. Religious persons have the right, without the intervention of the parish priest, to arrange a procession and to accompany the body of a deceased religious person with a stole and a customary cross to the cemetery, provided, however, that the body is carried without solemn pomp, by a direct route from the family of the regular order to the cemetery of their own convent, ibid. And from the funeral of a regular, it can be inferred that the same can be affirmed of the funeral of a secular person, who has an elected official, or a gentile burial place. ibid. Therefore, all emoluments that have been received by the Church on the occasion of the association to the cemetery, as being contrary to the law and improperly received, must be returned to the deceased parish priest, together with one-fourth of the wax of the funeral, if it was performed in a regular church, ibid. By law, everything pertaining to the administration of the sacraments, funerals, and other sacred functions belongs to the parish priests, page 686.

[*Latin ed. p. 766*]

766 INDEX GENERALIS: Est necessaria probatio formali, ut quilibet Sacerdos, non parochus, possit sibi vindicare jus aliquod paroeciale, ibidem. Privilegia et iura quae regularibus conceduntur quoad exemptionem a jurisdictione, sunt interpretationis strictissimae; ita ut omnino non possit censeri, eadem privilegia transire per communicationem in sodalitates laicorum, quae toto coelo differunt ab Ordinibus religiosis, ibidem. Consuetudo certa, univoca, et legitime praescripta potest etiam derogare iuribus paroecialibus, ibidem. Parochus quoad residentiam: Residentia personalis et assidua parochorum apud Ecclesiam paroecialem severissime iniungitur a lege tridentina, pagina 80. Ita ut materialis habitatio parochi, non solum intra limites paroeciae esse debeat; sed prope ecclesiam paroecialem, loco commodo, omnibusque opportuno, ibidem. Nec aeris inclementiam aut fideli um parvum numerum, nec aetatem senilem, aut malam valetudinem, invocari posse, ut causam dispensationis a residentia, Sacra Congregatio Consilii saepe resolvit, ibidem. Incommoda et angustiam aedium paroecialium tamen aliquando occasionem dedisse Sacrae Congregationi Consilii ut praefigeret terminum ad domum instaurandam, suspensa interim residentiae lege, ibidem. Sacerdos quoad incardinationem: Incardinatio sub conditione concessa, adimpleta conditione, plenum effectum sortitur et in absolutam convertitur, pagina 634. In vim incardinationis, Sacerdos ad dioecesim, a qua originem duxit, non amplius pertinet, sed iurisdictioni Episcopi, in cuius dioecesim receptus est, obnoxius est, ibidem. Hinc Episcopo dioecesis, in qua sacerdos incardinatus fuit, onus incumbit, sacerdoti praesidia vitae suppeditandi

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ac ipsius vitae vagae finem imponendi, ibidem. Verum ut sacerdos in aliena dioecesi incardinatus dicatur, praeter litteras dimissoriales Episcopi proprii, requiritur consensus acceptationis Episcopi, in cuius dioecesi recipi vult, ibidem. Vicarius foraneus: Non desunt doctores, qui vicariis foraneis praecedentiam tribuunt in sacris functionibus, aut amantes servandam esse consuetudinem, si adsit; quia consuetudo, praesertim immemorabilis, parit titulum meliorem de hoc mundo; dum vicarius foraneus, ratione officii, non praecedit alios presbyteros, pagina 283.

[*Latin ed. p. 767*]

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